
TIGARD CITY COUNCIL
MEETING

May 28, 2002 6:30 p.m.

TIGARD CITY HALL
13125 SW HALL BLVD
TIGARD, OR 97223



PUBLIC NOTICE:

Anyone wishing to speak on an agenda item should sign on the appropriate sign-up sheet(s). If no sheet is available, ask to be recognized by the Mayor at the beginning of that agenda item. Visitor's Agenda items are asked to be two minutes or less. Longer matters can be set for a future Agenda by contacting either the Mayor or the City Manager.

Times noted are estimated; it is recommended that persons interested in testifying be present by 7:15 p.m. to sign in on the testimony sign-in sheet. Business agenda items can be heard in any order after 7:30 p.m.

Assistive Listening Devices are available for persons with impaired hearing and should be scheduled for Council meetings by noon on the Monday prior to the Council meeting. Please call 503-639-4171, Ext. 309 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

Upon request, the City will also endeavor to arrange for the following services:

- Qualified sign language interpreters for persons with speech or hearing impairments; and
- Qualified bilingual interpreters.

Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. Please notify the City of your need by 5:00 p.m. on the Thursday preceding the meeting by calling: 503-639-4171, x309 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

SEE ATTACHED AGENDA

A G E N D A
TIGARD CITY COUNCIL MEETING
May 28, 2002

6:30 PM

- STUDY SESSION

- The Tigard City Council will go into Executive Session to discuss Current and Pending Litigation under ORS 192.660(1) (h). All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(3), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

7:30 PM

1. BUSINESS MEETING
 - 1.1 Call to Order - City Council & Local Contract Review Board
 - 1.2 Roll Call
 - 1.3 Pledge of Allegiance
 - 1.4 Council Communications & Liaison Reports
 - 1.5 Call to Council and Staff for Non-Agenda Items

2. VISITOR'S AGENDA (Two Minutes or Less, Please)

3. CONSENT AGENDA: These items are considered to be routine and may be enacted in one motion without separate discussion. Anyone may request that an item be removed by motion for discussion and separate action. Motion to:
 - 3.1 Approve Council Minutes: May 6 and 14, 2002
 - 3.2 Dedicate the Kristine Ann Tupling Butterfly Garden at Cook Park – Resolution No. 02 - _____
 - 3.3 Amend the Washington County Cooperative Library Service Public Library Agreement
 - 3.4 Amend the Washington County Inter-Library Information Network Agreement
 - 3.5 Local Contract Review Board: Award Contract for the Construction of Bonita Road Sanitary Sewer Improvements

- Consent Agenda - Items Removed for Separate Discussion: Any items requested to be removed from the Consent Agenda for separate discussion will be considered immediately after the Council has voted on those items which do not need discussion.

4. PUBLIC HEARING (LEGISLATIVE) – PLANNED DEVELOPMENT DENSITY BONUS LIMITATION AMENDMENT (ZOA 2002-00001)

The Tigard City Council will consider a request to amend the Planned Development requirements within the Tigard Development Code to limit the ability to grant density bonuses for areas constrained by sensitive lands (steep slopes greater than 25%, wetlands, drainageways, or 100-year floodplain). The amendment request is based on the present ability to seek density bonuses for preserving trees or open space in these constrained and otherwise undeveloped areas. LOCATION: Citywide. ZONE: N/A. APPLICABLE REVIEW CRITERIA: Statewide Planning Goals 1, 2, 5 and 10; and Community Development Code Chapters 18.350, 18.380, 18.390 and 18.790.

- Open Public Hearing
- Summation by Community Development Department
- Public Testimony
- Staff Recommendation
- Council Discussion
- Close Public Hearing
- Consideration by Council: Ordinance No. 02 - _____

5. PUBLIC HEARING (QUASI-JUDICIAL) – 68TH PARKWAY AT ATLANTA PUBLIC RIGHT OF WAY VACATION (VAC2002-00001)

The Tigard City Council will consider a proposed vacation involving a portion of public right-of-way on the corner of SW 68th Parkway at SW Atlanta Street and consolidate into tax lot 1S136DD, 00900. The purpose of the request is to allow the adjoining property to the west to develop according to the Tigard Triangle development standards. According to the development standards of the Tigard Triangle, a building must be located within 10 feet of a public right-of-way. The configuration of the existing right-of-way creates a buffer between the property and SW 68th Parkway, which would not allow the adjoining property to meet the setback criteria without a variance. A public storm line lies within the northeast corner of the public right-of-way to be vacated. A public storm water

easement will be granted to the City of Tigard concurrently with the right-of-way vacation, that will encompass approximately 7.5 feet on each side of the existing stormpipe. The location of the portion of the vacation request is the section of SW 68th Parkway public right-of-way which lies southeast of SW Atlanta Street.

The request was filed with the City on February 15, 2002 and initiated by the City Council at the request of the applicant on March 26, 2002. Any interested person may appear and be heard for or against the proposed vacation of said 68th Parkway at Atlanta Street Public Right-of-Way Vacation. Any written objections or remonstrances shall be filed with the City Recorder by 7:30 PM on May 28, 2002.

- a. Open Public Hearing
- b. Declarations or Challenges
- c. Staff Report: Community Development Department
- d. Public Testimony
 - Proponents
 - Opponents
 - Rebuttal
- e. Staff Recommendation
- f. Council Questions
- g. Close Public Hearing
- h. Council Consideration: Ordinance No. 02 - _____

6. PUBLIC HEARING (QUASI-JUDICIAL) – DARTMOUTH STREET AT 69TH AVENUE PUBLIC RIGHT OF WAY VACATION (VAC2001-00003)

The Tigard City Council will consider a proposed vacation of public right-of-way involving a 1,181.6 square foot portion of public right-of-way on SW Dartmouth Street, west of SW 69th Avenue. The purpose of the request is to allow the adjoining property to the south to install a permanent monument sign in the vacated right-of-way. The location of the area to be vacated is the portion of SW Dartmouth Street public right-of-way from SW 69th Avenue to SW 70th Avenue.

The request was filed with the City on February 22, 2002 and initiated by the City Council at the request of the applicant on April 9, 2002. Any interested person may appear and be heard for or against the proposed vacation of said Dartmouth Street at 69th Avenue Public Right-of-Way Vacation. Any written objections or remonstrances shall be filed with the City Recorder by 7:30 PM on May 28, 2002.

- a. Open Public Hearing
 - b. Declarations or Challenges
 - c. Staff Report: Community Development Department
 - d. Public Testimony
 - Proponents
 - Opponents
 - Rebuttal
 - e. Staff Recommendation
 - f. Council Questions
 - g. Close Public Hearing
 - h. Council Consideration: Ordinance No. 02 - _____
7. CONSIDER ORDINANCE AMENDING ORDINANCE NO. 96-09 EXHIBIT "A" (PURCHASING RULES) TO ALLOW DESIGN/BUILD OR CONSTRUCTION MANAGER/GENERAL CONTRACTOR (CM/GC) CONTRACTS
- a. Staff Report: Finance Staff
 - b. Council Discussion
 - c. Council Consideration: Ordinance No. 02 - _____
8. CONSIDER ORDINANCE UPDATING TITLE 15.04, STREETS AND ALLEY EXCAVATIONS, OF THE TIGARD MUNICIPAL CODE
- a. Staff Report: Engineering Staff
 - b. Council Discussion
 - c. Council Consideration: Ordinance No. 02 - _____
9. COUNCIL LIAISON REPORTS
10. NON AGENDA ITEMS

11. EXECUTIVE SESSION: The Tigard City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(3), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

12. ADJOURNMENT

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MINUTES
TIGARD CITY COUNCIL SPECIAL MEETING
MAY 6, 2002 – 5:30 PM

I. Roll Call and Call to Order

- Mayor Griffith called the meeting to order at 5:30 p.m.
- Council Members Present: Mayor Griffith, Councilors Dirksen, Moore, Patton, and Scheckla

II. Discussion – Management Compensation and Benefits

- Staff Report

City Manager Monahan introduced this agenda item and reviewed the four items to be reviewed by Council regarding City of Tigard management staff:

1. Proposed cost of living allowance (COLA) adjustment for fiscal year 2002-03.
2. Adjustment to Public Employee Retirement System (PERS) benefit proposed for police management personnel.
3. Proposed salary adjustments resulting from a compensation study completed for the City of Tigard management group.
4. Options for department head utilization of their life insurance benefit.

Human Resources Director Zodrow reviewed the above-referenced items with the City Council. Detailed information on the proposals is contained in the meeting packet material, which is on file in the City Recorder's office.

Finance Director Prosser advised that the proposed 3.5% COLA adjustment had been calculated in the proposed budget submitted to the Budget Committee. The additional expenses from the PERS adjustments and the management compensation study adjustments have not been incorporated in the proposed budget.

- Council Discussion

- > Councilor Moore advised he has no problems with the COLA and PERS adjustments as proposed. He also said he supports the proposal for the department heads to choose how they want to utilize their life insurance benefit (as proposed in the City Manager's memorandum dated April 26, 2002, which is on file in the City Recorder's office). With regard to the proposed adjustments to management compensation, he advised he was concerned with implementing the adjustments all at once and suggested the increases be phased in over the next several years.

- > Councilor Patton said she agreed with Councilor Moore's comments. She said that due to the current economic climate, that this would not be a good time to implement these increases. She suggested the Council review the matter again next budget year and concurred with Councilor Moore's idea of a phased-in approach.
- > Councilors Scheckla and Dirksen agreed with Councilors Moore's and Patton's comments.
- > Mayor Griffith also noted he agreed with the above Council member comments. He suggested that it might be a good idea to look at individual compensation amounts for those classifications that appear to be "way out in left field" when compared to the market information. He also noted that the economy is playing a role in his preference to defer addressing the management compensation proposed adjustments.
- > Councilor Dirksen suggested that it might be appropriate to consider an increase if an individual has demonstrated a high level of performance, which should be rewarded through a merit increase.

City Manager Monahan advised that the Council's direction on the PERS and Department Head insurance option would be reflected in the budget figures that will be presented to the Budget Committee next week. (The Management COLA, as noted above by the Finance Director, has already been calculated in the proposed budget.)

III. Non-Agenda Items: None.

IV. Adjournment: 6:26 p.m.

Attest:

Catherine Wheatley, City Recorder

Mayor, City of Tigard

Date: _____

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COUNCIL MINUTES
TIGARD CITY COUNCIL MEETING
May 14, 2002

- STUDY SESSION

Mayor Griffith called the meeting to order at 6:31 p.m.

Council present: Mayor Griffith; Councilors Dirksen, Moore, Patton and Scheckla.

- STUDY SESSION

- Fixed asset policy. Finance Director Prosser advised the revision to the policy is a "housekeeping" matter. This item is on the Consent Agenda for Council consideration.
- Qwest franchise fee payment was received today. Finance Director Prosser advised the amount was smaller than the usual amount received. He referred to the fact that Qwest is one of the organizations that will be scheduled for an audit.
- Finance Director Prosser advised that the Municipal Court received (late this afternoon) the signed order from Washington County authorizing the City of Tigard Municipal Court to take over some juvenile cases. First of these cases will likely be heard in late June.
- City Manager Monahan advised that Randall Funding & Development has agreed to continue to provide grant research and writing services at no cost to the City for Fiscal Year 2002-03.
- City Manager Monahan referred to the letters and emails received regarding concerns about the proposed Wall Street Local Improvement District (related to the proposed new library). After brief discussion Council members agreed that notices be sent to those who have contacted the City acknowledging receipt of their correspondence.
- Dedication of the Tupling Butterfly Garden will be on Sunday, June 16, at Cook Park. Mayor Griffith plans to attend. Councilors Dirksen and Moore indicated they also would try to attend.

- EXECUTIVE SESSION: The Tigard City Council went into Executive Session at 6:39 p.m. to discuss Labor Negotiations, Real Property Transactions, and Current and Pending Litigation under ORS 192.660(1) (d) (e) and (h).

Executive Session Concluded at 7:10 p.m.

1. BUSINESS MEETING

- 1.1 Mayor Griffith called the City Council & Local Contract Review Board Meeting to order at 7:32 p.m.
- 1.2 Council Present: Mayor Griffith; Councilors Dirksen, Moore, Patton, and Scheckla
- 1.3 Pledge of Allegiance
- 1.4 Council Communications & Liaison Reports: None
- 1.5 Call to Council and Staff for Non-Agenda Items

City Manager Monahan noted that the following item would be added to Item No. 10, Non-Agenda: Item 10.1 – Consider Request from Tigard Recreation Association

2. VISITOR'S AGENDA

Tigard High School Student Envoy Nathan Leamy distributed a written report of recent and upcoming events at Tigard High School. A copy of this report is on file in the City Recorder's office. Mr. Leamy introduced Paul Brems who will serve as Tigard High School Student Envoy to the City Council next school year.

Motion by Councilor Scheckla, seconded by Councilor Dirksen, to adopt Resolution No. 02-30.

RESOLUTION NO. 02-30 - A RESOLUTION ACKNOWLEDGING AND COMMENDING NATHAN LEAMY FOR HIS EFFORTS AS THE TIGARD HIGH SCHOOL STUDENT ENVOY TO THE CITY OF TIGARD

The resolution was adopted by a unanimous vote of Council present:

Mayor Griffith	-	Yes
Councilor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Patton	-	Yes
Councilor Scheckla	-	Yes

> Mayor Griffith urged people to vote. Ballots are due May 21, 2002.

3. PROCLAMATIONS – Mayor Griffith proclaimed the following:

3.1 WEEK OF MAY 19-25, 2002, EMERGENCY MEDICAL SERVICES WEEK A representative from Metro West Ambulance presented a plaque to the City of Tigard Council recognizing the Council for its support of emergency medical services personnel in the City of Tigard. Council also received an invitation to the EMS Week Barbecue on Wednesday, May 22, 2002, in Hillsboro, Oregon.

3.2 PROCLAIM WEEK OF MAY 19-25, 2002, AS SAVE A LIFE WEEK

4. CONSENT AGENDA: Motion by Councilor Patton, seconded by Councilor Dirksen, to adopt the Consent Agenda as follows:

4.1 Approve Council Minutes for March 19, 26, April 9, 16 and 23, 2002

4.2 Receive and File:

a. Council Calendar

b. Tentative Agenda

4.3 Adopt a Revised Fixed Asset Policy – Resolution No. 02-31

4.4 Approve City Manager's Contract

4.5 Authorize the Mayor to Sign an Agreement Accepting \$140,400 in Community Development Block Grant Funds to Develop a New Neighborhood Park on City Property Along Bonita Road

The motion was approved by a unanimous vote of Council present:

Mayor Griffith	-	Yes
Councilor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Patton	-	Yes
Councilor Scheckla	-	Yes

5. PUBLIC HEARING (QUASI-JUDICIAL) - ZONE CHANGE ANNEXATION (ZCA) 2002-00001 FERN STREET ANNEXATION

The applicant is requesting to annex two (2) parcels into the City of Tigard. However, the City of Tigard finds it appropriate to consider annexing three (3) additional parcels for a total of five (5) parcels consisting of 9.68 acres.

LOCATION: 13998, 14040, 14050, 14125 and 14445 SW Fern Street; WCTM 2S104BC, Tax Lots 2400, 2200, 2100, 700 and 1000. **ZONE:** R-7:

Medium-Density Residential District. The R-7 zoning district is designed to accommodate attached single-family homes, detached single-family homes with or without accessory residential units, at a minimum lot size of 5,000 square feet, and duplexes, at a minimum lot size of 10,000 square feet. Mobile home parks and subdivisions are also permitted outright. Some civic and institutional uses are also permitted conditionally. **APPLICABLE REVIEW CRITERIA:** The approval standards for annexations are set out in Community Development Code Chapters 18.320 and 18.390, Comprehensive Plan Policies 2 and 10; ORS Chapter 222; and Metro Code Chapter 3.09.

- a. Mayor Griffith opened the public hearing.
- b. Declarations or Challenges – Mayor Griffith asked the following questions:
 - Do any members of Council wish to report any ex parte contact or information gained outside the hearing, including any site visits? None reported.
 - Have all members familiarized themselves with the application? All Council members indicated they were familiar with the applications.
 - Are there any challenges from the audience pertaining to the Council's jurisdiction to hear this matter or is there a challenge on the participation of any member of the Council? There were no challenges.
- c. Staff Report: Community Development Director Hendryx introduced this agenda item and Assistant Planner Matt Scheidegger presented the staff report. A copy of the staff report is on file in the City Recorder's office.
- d. Public Testimony:

Mayor Griffith read the following statement:

- For all those wishing to testify, please be aware that failure to raise an issue accompanied by statements or evidence sufficient to afford the Council and parties an opportunity to respond to the issue will preclude an appeal to the Land Use Board of Appeals on this issue. Testimony and evidence must be directed toward the criteria described by staff or other criteria in the plan or land use regulation which you believe apply to the decision.
- Gretchen Buehner, 13249 SW 136th Place, Tigard, Oregon urged Council to annex the entire area and avoid creating islands.

- Paul Hoffman, 13985 SW Fern Street, Tigard, Oregon requested clarification on how an island is created and how notification is sent to nearby property owners. Mr. Scheidegger advised that property owners within 500 feet of the proposed area are notified; notification requirements were met. Mr. Hendryx confirmed that an island was created at the time the Pacific Crest area was annexed to the City. Mr. Hoffman said he'd prefer to stay in the County because the County was more flexible in regulations for development (i.e., citing Tigard's ordinances regulating trees).
 - John Lewis, 13990 SW Fern Street, Tigard, Oregon also questioned notification process and said he'd prefer to stay in the County as well. Mr. Lewis questioned whether a property owner (Mr. Noland) cited in the proposed Option 2 had been notified of the hearing. Mr. Noland's .46-acre parcel of property was identified as an island among the five other parcels being considered for annexation. Staff confirmed that notification requirements, including mailings and posting of the property had been done. Mr. Lewis advised he didn't think a mailing was adequate notice and said he had not seen the posted notices on the property.
 - Mr. Rich Degroot, 13058 SW Oxalis, Tigard, Oregon advised he saw the a notice posted on the property, but that he thought it was only there for about a day.
- e. Staff recommended annexation (option 2) of six parcels, approximately 12.32 acres, through means of a double majority. (This includes the .46 acre parcel.)
 - f. Councilor Patton said that the notices on properties advising of hearings should be checked periodically. Mr. Scheidegger confirmed that more than one notification to property owners occurs. Councilor Patton commented that except for one property, the parcels under consideration for annexation were not initiated by the City, but were being considered for annexation at the property owners' request. The property owner that did not request annexation was notified more than once about this hearing. Other comments from Council members were in agreement with Councilor Patton.
 - g. Mayor Griffith closed the public hearing.

- h. Motion by Councilor Moore, seconded by Councilor Patton, to adopt Ordinance No. 02-17.

ORDINANCE NO. 02-17 - AN ORDINANCE ADOPTING FINDINGS AND CONCLUSIONS TO APPROVE AN ANNEXATION (ZCA) 2002-00001/FERN STREET ANNEXATION AND WITHDRAWING PROPERTY FROM THE TIGARD WATER DISTRICT, WASHINGTON COUNTY ENHANCED SHERIFF'S PATROL DISTRICT, WASHINGTON COUNTY URBAN ROADS MAINTENANCE DISTRICT, WASHINGTON COUNTY STREET LIGHTING DISTRICT #1, AND THE WASHINGTON COUNTY VECTOR CONTROL DISTRICT.

The motion was approved by a unanimous vote of Council present:

Mayor Griffith	-	Yes
Councilor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Patton	-	Yes
Councilor Scheckla	-	Yes

6. CONSIDER AWARDING ARCHITECTURAL CONCEPTUAL DESIGN SERVICES FOR A SKATEBOARD PARK FACILITY TO PURKISS ROSE, RSI AND AUTHORIZE EXPENDITURES FOR INITIAL COSTS OF THE SKATEBOARD PARK TASK FORCE

Public Works Director Wegner introduced this agenda item and Parks Manager Dan Plaza presented the staff report, which is on file in the City Recorder's office. Mr. Plaza reported on the numerous subcommittee meetings that have occurred. He recounted that Task Force representatives met with the Council on January 15, 2002, during a workshop meeting. At this workshop meeting, the Council indicated it would support up to \$20,000 in seed money for architectural design services and to cover some of the initial costs of the Task Force. Mr. Plaza advised that Requests for Proposals (RFPs) were issued and five responses were received. Staff recommended that the conceptual design services contract be awarded to Purkiss Rose, RSI. There was discussion on the review of potential sites including a utility site, a school site, and a park site. Mr. Plaza thanked the Council for its support of the Task Force.

Motion by Councilor Moore, seconded by Councilor Dirksen, to award the contract to Purkiss Rose, RSI, and to authorize the City Manager to sign the contract.

The motion was approved by a unanimous vote of Council present:

Mayor Griffith	-	Yes
Councilor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Patton	-	Yes
Councilor Scheckla	-	Yes

7. UPDATE ON LIBRARY'S ANNUAL SUMMER READING PROGRAM

Library Director Margaret Barnes presented the staff report, which is on file in the City Recorder's office. The goal of the Summer Reading program is to have families use the library and to encourage children to read for recreation during the summer. The theme this year is "Don't Bug Me I'm Reading." The children's and teen programs will begin on June 17 and continue to August 3.

8. FINANCE DEPARTMENT OVERVIEW

Finance Director presented a PowerPoint presentation to the Council, which is on file in the City Recorder's office. Finance operations include: Administration, Financial Operations, Utility Billing, Accounting & Financial Reporting, Administrative Services, and Municipal Court.

9. COUNCIL LIAISON REPORTS: None

10. NON AGENDA ITEMS

10.1 Consider Request from Tigard Recreation Association

City Manager Monahan reviewed the staff report outlining the request of the Tigard Recreation Association for waiver of a park fee for a children's concert on August 20.

Motion by Council Moore, seconded by Councilor Patton to waive the \$43 park fee as requested.

The motion was approved by a unanimous vote of Council present:

Mayor Griffith	-	Yes
Councilor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Patton	-	Yes
Councilor Scheckla	-	Yes

11. EXECUTIVE SESSION: Not held.

12. ADJOURNMENT: 8:50 p.m.

Attest:

Catherine Wheatley, City Recorder

Mayor, City of Tigard

Date: _____

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CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Council Resolution dedicating the Cook Park Butterfly Garden to the Kristine Ann Tupling Butterfly Garden

PREPARED BY: John Roy DEPT HEAD OK _____ CITY MGR OK _____

ISSUE BEFORE THE COUNCIL

Council to approve Resolution to dedicate the Kristine Ann Tupling Butterfly Garden at Cook Park.

STAFF RECOMMENDATION

Staff recommends that Council approve the recommendation to name the Cook Park Butterfly Garden as the Kristine Ann Tupling Butterfly Garden.

INFORMATION SUMMARY

On April 23, 2002, staff reported to Council on the butterfly garden at Cook Park. Staff reported that the funding for the garden came from a \$100,000 bequeath by Kristine Ann Tupling in 1996. Staff informed Council that they would return to request the renaming of the Butterfly Garden and to hold a dedication ceremony. Staff also presented a rendition of the memorial plaque to be unveiled at the dedication ceremony to be held on June 16th. In complying with the City's Memorial Policy including placement of a memorial in a City Park requires approval by the City Council. The plaque will be mounted on a large landscape rock located at the entryway to the garden.

OTHER ALTERNATIVES CONSIDERED

Reject staff recommendation and give staff further direction.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

The dedication of the Kristine Ann Tupling Butterfly Garden complies with the Tigard Beyond Tomorrow Goal for Community Character & Quality of Life.

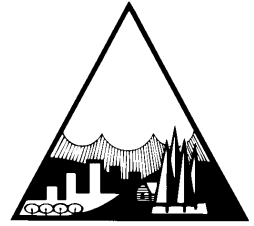
ATTACHMENT LIST

- Memo from John Roy regarding City of Tigard Memorial Policy
- City of Tigard Memorial Policy
- Resolution No. 02-

FISCAL NOTES

The cost of the memorial plaque is \$190.00 to be funded from the \$100,000 bequeath.

MEMORANDUM



TO: Honorable Mayor and City Council

FROM: John Roy

RE: City Council Policy on Placing Memorials in City Parks

DATE: May 21, 2002

Staff has been directed to provide the following information regarding the City's Memorial Policy and how it applies to the request to name the Butterfly Garden at Cook Park the Kristine Ann Tupling Butterfly Garden. According to Resolution No. 99-37, A Resolution Establishing a Policy of the City Council on Placing Memorials in City Parks, Exhibit "A", Tigard Memorial Policy for Naming City Park Facilities, Distinct Elements within City-Owned Properties, and City Buildings.

Staff recommendation is based on Section 2, Distinct Elements within City Owned Parks, which states, "Memorials can be placed at distinct elements of City-owned properties, such as shelters, sports fields, gardens, wetlands, tennis courts, rooms, fountains, ponds, paths, art, etc. Additionally, Section 2 states that "requests for such amenities may be made to honor an individual who has passed away or as an honorarium for someone who is living and has made a contribution to the City, either financially or through civic duty".

The butterfly garden at Cook Park is a distinct element of the park, and therefore according to the Memorial Policy requires Council approval for renaming. Since the funding for the development of the garden area at Cook Park came from a bequeath from Kristine Ann Tupling, it is staff's opinion that Council's approval of the request meet the requirements of the Memorial Policy.

If you have any questions, or would like to discuss this further, please do not hesitate to contact me.

Thanks!

CITY OF TIGARD, OREGON

RESOLUTION NO. 99-37

A RESOLUTION ESTABLISHING A POLICY OF THE CITY COUNCIL ON PLACING MEMORIALS IN CITY PARKS.

WHEREAS, the Tigard City Council desires to have a policy for designating memorials within City park facilities, City-owned properties and with the naming of building and park properties; and

WHEREAS, the City Council recognizes that over the past several years, various park lands have been acquired by the City of Tigard and various facilities have been built at City parks and properties which could appropriately be named in memory of individuals who have provided service to the community; and

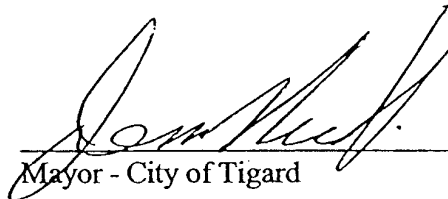
WHEREAS, in the past the City has named properties or facilities in memory of individuals without the benefit of an established City policy; and

WHEREAS, the Council wishes to have a formal policy to apply for official naming of City parks, facilities and features within parks.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

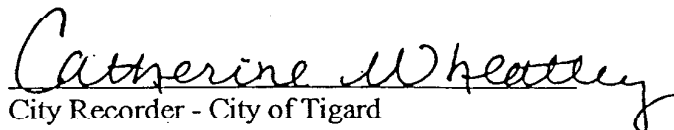
SECTION 1: The City Council hereby adopts the Memorial Policy described in Exhibit "A" attached hereto.

PASSED: This 8th day of June 1999.



Mayor - City of Tigard

ATTEST:



City Recorder - City of Tigard

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EXHIBIT "A"

TIGARD MEMORIAL POLICY FOR NAMING CITY PARK FACILITIES, DISTINCT ELEMENTS WITHIN CITY-OWNED PROPERTIES, AND CITY BUILDINGS

PURPOSE:

To outline the policy, criteria and process for designating memorials within City park facilities, distinct elements within City-owned properties and naming of buildings and park properties.

BACKGROUND:

As the City adds parks, open spaces and public facilities by acquisition and donation, the City has found that there is a need for a process to honor individuals or groups by naming City parks, distinct elements within City-owned properties or City buildings and to place memorials to advise the public of the recognition. In addition, the City has been the recipient of bequests which have required that the City recognize the financial contributions by memorializing the gift in some way. Finally, in the past, the City has accepted as a term of purchase of park land a requirement that the City acquired property be developed into a park with a specified park name.

In order that the City Council and staff have guidelines to follow when considering requests that memorials be placed within City park facilities or that City parks or buildings be named after individuals, a policy should be in place.

POLICY:

Land, facilities and features within property owned by the City of Tigard will be named through an administrative process in accordance with established criteria that emphasize community identity and service to the community.

Criteria for naming City park facilities, distinct elements within City-owned properties, and City buildings:

1. Memorials within City park facilities – Memorials included within this category are memorials which would be placed on or near basic park amenities, such as benches, picnic tables, trees, shrubs and plaques. If the memorial meets park standards for construction and materials, the Parks Division will assume maintenance responsibility for the useful life of the memorial. Replacement of the memorial shall be at the discretion of the Parks Division staff. Interested parties must submit a written request to the Parks Division regarding the type of memorial, proposal occasion and significance of the memorial.

Parties interested in placing memorials shall be financially responsible for the purchase of the memorial. An extensive review process is not necessary for these types of memorials. These requests shall be handled administratively by the Parks Division to ensure that City standards are met. The Parks Division has the right to adjust the location of the proposed memorial. The Parks Division shall notify the City Council of any actions taken to accept and place new memorials within City parks.

The standards that the Parks Division will follow in regard to park memorials are:

- a) Benches – benches must be made of wood, contoured or flat-styled pedestal, outdoor benches unless an alternative material is approved by the Parks Division upon a finding that there are circumstances that exist that make it appropriate to use the alternative material. Any bench to be contributed as a memorial and to be placed within City park facilities shall be purchased through a Parks Division approved manufacturer. A brass plaque may be attached to the bench but shall be no larger than 2 ½ x 6 inches in size. Prior to purchasing any bench for display in City parks, an interested party must contact City staff and review the example of approved benches maintained by the City staff.

- b) Trees – trees planted at City facilities as memorials must be at least 2 inches caliper, native to the area and fit into the existing landscape scheme of the park area or fit into the adopted plan for tree planting in that area.
- c) Plaques – plaques may be placed in conjunction with a shrub or tree which are donated to the City as a memorial. Plaques shall not be placed as stand alone features. Plaques must be made of bronze and be no larger than 8 ½ x 11 inches in size. Plaques must be set in concrete, aggregate rock, or a boulder. City staff shall review the design of plaque and setting. Examples of the type of plaques approved by the City shall be made available by Parks staff.

2. Distinct elements within City-owned parks – Memorials can be placed at distinct elements of City-owned properties, such as shelters, sports fields, gardens, wetlands, tennis courts, rooms, fountains, ponds, paths, art, etc. Individuals interested in having a distinct element named in honor of an individual are required to submit a written request to the Tigard City Council regarding the particular type of amenity in which they are interested in sponsoring. Applications shall be made through the Parks Division.

Requests for such amenities may be made to honor an individual who has passed away or as an honorarium for someone who is living and has made a contribution to the City, either financially or through civic duty. Review of

such requests shall be made by the City Council. Council approval is needed. Guidelines regarding signage shall be adopted by Council based on recommendations made by the Parks Division.

The standards that the Parks Division will follow in regard to signage will be kept on record at the Public Works office. Examples of suitable signage will be available for public viewing.

3. Naming of buildings and park properties – City buildings and park properties may be named to honor individuals or groups. Interested parties shall submit a written request to the Tigard City Council regarding the property or building which they are interested in having Council name in honor of an individual or group. In addition, the City Council on its own motion, may consider naming a building or park. This type of memorial requires extensive review and Council approval in the form of a resolution. City staff will deal with guidelines for Council consideration.

The standards that the Parks Division will follow in regard to signage will be kept on record at the Public Works office. Examples of suitable signage will be available for public viewing.

CITY OF TIGARD, OREGON

RESOLUTION NO. 02-_____

A RESOLUTION DEDICATING THE BUTTERFLY GARDEN AT COOK PARK IN HONOR OF KRISTINE ANN TUPLING

WHEREAS, the butterfly garden at Cook Park is completed and dedication is planned for June 16, 2002, and;

WHEREAS, \$100,000 was bequeathed by Kristine Ann Tupling in 1996; and,

WHEREAS, City staff request that the Butterfly Garden at Cook Park be named the Kristine Ann Tupling Butterfly Garden; and,

WHEREAS, the City Council has adopted Resolution 99-37 establishing a formal policy on placing memorials in City parks, and;

WHEREAS, Resolution 99-37 allows placement of memorials at distinct elements on City owned property; and;

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: A memorial plaque be placed at the butterfly garden at Cook Park in honor of Kristine Ann Tupling.

SECTION 2: The plaque shall be made in conformance with standards kept on record in the Public Works Office.

EFFECTIVE DATE: The plaque shall be unveiled at a dedication ceremony to be held on Sunday, June 16, 2002 at 11:00 a.m.

PASSED: This _____ day of _____, 2002.

Mayor - City of Tigard

ATTEST:

City Recorder - City of Tigard

RESOLUTION NO. 02-____

AGENDA ITEM # _____
FOR AGENDA OF May 28, 2002

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Amendment to the WCCLS Public Library Service Agreement

PREPARED BY: Margaret Barnes DEPT HEAD OK _____ CITY MGR OK _____

ISSUE BEFORE THE COUNCIL

Washington County has issued an amendment to the existing WCCLS Public Library Services Agreement.

STAFF RECOMMENDATION

Approve the amendment to the WCCLS Public Library Services Agreement.

INFORMATION SUMMARY

On behalf of Washington County Cooperative Library Services (WCCLS), Washington County has issued an amendment to extend the existing Public Library Services Agreement. The Agreement will be in effect for July 1, 2002 through June 30, 2003 and covers the budget allocation that the City of Tigard receives from WCCLS for library services.

OTHER ALTERNATIVES CONSIDERED

None.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

None.

ATTACHMENT LIST

A. Amendment to the Public Library Services Agreement.

FISCAL NOTES

The City of Tigard will receive \$1,237,470 for FY 2002/2003 according to the attached reimbursement formula that amounts to a 3.2% increase, or \$38,211 over the FY 2001/2002 amount.

AMENDMENT TO THE PUBLIC LIBRARY SERVICES AGREEMENT

This amends the Agreement between Washington County, on behalf of the Cooperative Library Services, and the cities of Banks, Beaverton, Cornelius, Forest Grove, Hillsboro, Sherwood, Tigard and Tualatin and the Cedar Mill Community Library Association and the Garden Home Community Library Association as follows:

Replace Section 2, TERM OF AGREEMENT as follows:

This Agreement shall be in effect from July 1, 2002 through June 30, 2003, except as otherwise provided in Section 11 of this Agreement. It is the intent of the parties that this Agreement becomes effective July 1, 2002.

Amend Section 3, FUNDS as follows:

As compensation to Contractor for the services to be provided pursuant to this Agreement, WCCLS agrees to make payments to Contractor ~~on the basis of the funding formula set forth in Section 4~~ according to Exhibit A for the one-year term on July 1, 2002 through June 30, 2003 and the Payment Schedule set forth in Section 6.

Add the following to Section 4, FUNDING FORMULA, Paragraph B:

FY02-03 \$10,831,369

Add Section 4, FUNDING FORMULA, Paragraph D as follows:

D. Cultural and Arts Programming. In FY02-03 WCCLS will distribute a one-time payment to support cultural and arts programming. This funding must be used for artist fees and associated performance costs and local publicity for the Arts In Libraries program. The payment shall be \$1346 for each Contractor and the West Slope Community Library. Hillsboro shall receive two payments because it manages two full-service library outlets.

In return for receiving funds, Contractors and the West Slope Community Library will submit summary reports to WCCLS in December 2002 and June 2003 summarizing performances held and accounting for funds expended.

In performing the above, it is understood and agreed that all other terms and conditions of the original Agreement are still in effect.

FOR WASHINGTON COUNTY:

FOR THE CONTRACTOR:

Name

Name

Title

Title

Date

Date

Approved as to form: _____

Assistant County Counsel

2002-03 Reimbursement Formula
Public Library Services Agreement, Exhibit A

↓

	Adjusted 2001 Reimb. Circulation	2002-03 Circulation Payment	00-01 Coll Expend	02-03 Coll Expenditures Payment	Open Hours	02-03 Open Hours Payment	00-01 Vols Added	02-03 Vols Added Payment	Subtotal 2002-03 Distribution	2001-02 Distribution	% of Prev. Year	Dollar Difference	FY 02-03 distrib w/min. 2% increase for all	Revised % incr over FY01-02	% of Total Distrib.
Banks	29,396	\$ 52,285	\$ 9,120	\$ 1,518	36	\$ 11,062	3,081	\$ 7,204	\$ 72,069	\$ 72,289	100%	\$ (220)	\$ 73,735	2.0%	0.67%
Beaverton	1,545,269	\$ 2,748,461	\$ 707,478	\$ 117,756	71	\$ 21,816	27,689	\$ 64,746	\$ 2,952,780	\$ 2,775,766	106%	\$ 177,014	\$ 2,948,570	6.2%	27.26%
Cedar Mill	879,155	\$ 1,563,691	\$ 212,884	\$ 35,434	62	\$ 19,051	18,114	\$ 42,357	\$ 1,660,532	\$ 1,597,122	104%	\$ 63,410	\$ 1,658,166	3.8%	15.33%
Cornelius	41,114	\$ 73,127	\$ 6,520	\$ 1,085	46	\$ 14,135	1,880	\$ 4,396	\$ 92,742	\$ 98,022	95%	\$ (5,280)	\$ 99,982	2.0%	0.86%
Forest Grove	217,005	\$ 385,972	\$ 105,576	\$ 17,573	62	\$ 19,051	9,256	\$ 21,644	\$ 444,239	\$ 441,083	101%	\$ 3,156	\$ 449,905	2.0%	4.10%
Garden Home	131,901	\$ 181,244	\$ 20,795	\$ 3,461	51	\$ 15,671	2,664	\$ 6,229	\$ 206,606	\$ 171,870	120%	\$ 34,736	\$ 206,311	20.0%	1.91%
Hillsboro	1,508,444	\$ 2,682,963	\$ 465,311	\$ 77,449	128	\$ 39,331	39,235	\$ 91,745	\$ 2,891,488	\$ 2,759,927	105%	\$ 131,561	\$ 2,887,366	4.6%	26.70%
Sherwood	157,758	\$ 280,593	\$ 46,139	\$ 7,680	60	\$ 18,436	5,113	\$ 11,956	\$ 318,665	\$ 271,109	118%	\$ 47,556	\$ 318,211	17.4%	2.94%
Tigard	642,718	\$ 1,143,157	\$ 214,900	\$ 35,769	69	\$ 21,202	16,724	\$ 39,106	\$ 1,239,235	\$ 1,199,259	103%	\$ 39,976	\$ 1,237,470	3.2%	11.44%
Tualatin	288,351	\$ 512,870	\$ 122,056	\$ 20,316	65	\$ 19,973	9,637	\$ 22,535	\$ 575,693	\$ 441,126	131%	\$ 134,567	\$ 574,872	30.3%	5.32%
West Slope	191,438	\$ 340,497	\$ 41,460	\$ 6,901	55	\$ 16,900	5,569	\$ 13,022	\$ 377,320	\$ 346,437	109%	\$ 30,883	\$ 376,782	8.8%	3.48%
TOTAL	5,602,549	\$ 9,964,859	\$ 1,952,239	\$ 324,941	705	\$ 216,627	\$138,962	\$ 324,941	\$ 10,831,369	\$ 10,174,010	106%		\$ 10,831,369		100%

Payment per circ \$ 1.78
Total allocation/circulation: \$ 1.93

adjustment: \$ 14,572

reduction: 0.1426%

FY02-03 Allocation	\$ 10,831,369
Circulation 92%	\$ 9,964,859
Volls Added 3%	\$ 324,941
Coll Expend 3%	\$ 324,941
Open Hrs 2%	\$ 216,627

eva/contracts/pl services agmt/PLSA exhibit A 02-03
rev 2/11/02: former Wilsonville Payment added to allocation.

AGENDA ITEM # _____
FOR AGENDA OF May 28, 2002

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Amendment to the Washington County Inter-Library Information Network Agreement

PREPARED BY: Margaret Barnes DEPT HEAD OK _____ CITY MGR OK _____

ISSUE BEFORE THE COUNCIL

Washington County has issued an amendment to the existing Washington County Inter-Library Information Network Agreement.

STAFF RECOMMENDATION

Approve the amendment to the Washington County Inter-Library Information Network (WILnet) Agreement.

INFORMATION SUMMARY

This amendment extends the existing WILnet Agreement through June 30, 2003. This agreement covers the use and operation of the WILnet automated integrated library system countywide.

OTHER ALTERNATIVES CONSIDERED

None.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

None.

ATTACHMENT LIST

A. Amendment to the Washington County Inter-Library Information Network (WILnet) Agreement.

FISCAL NOTES

The City of Tigard (Library) is responsible for the purchase, installation and maintenance of peripheral equipment necessary to connect to WILnet.

**AMENDMENT TO THE WASHINGTON COUNTY INTER-LIBRARY
INFORMATION NETWORK (WILINET) AGREEMENT**

This amends the Agreement between Washington County, on behalf of the Cooperative Library Services, and the cities of Banks, Beaverton, Cornelius, Forest Grove, Hillsboro, Sherwood, Tigard and Tualatin, Cedar Mill Community Library Association, Garden Home Community Library Association, Tuality Healthcare and Oregon College of Art and Craft as follows:

Amend Section 2, TERM OF AGREEMENT as follows:

This Agreement shall be in effect from July 1, 2002 through June 30, 2003, except as otherwise provided in Section 15 of this Agreement.

Amend Section 4, SERVICE AVAILABILITY, Paragraph A as follows:

WILI staff shall be available to service WILInet and support member libraries 8:00 am – 9:00 pm, Monday through ~~Thursday~~ *Friday*, 8:00 am – 6:00 pm ~~Friday and Saturday~~, and 8:00 am – 5:30 pm Sunday.

Delete Paragraph A of Section 6, DUTIES AND RESPONSIBILITIES OF WCCLS.

Amend Section 6, DUTIES AND RESPONSIBILITIES OF WCCLS, Paragraph B as follows:

Provide or contract for the provision of central site software *and hardware* maintenance.

Amend Section 7, DUTIES AND RESPONSIBILITIES OF WILInet USERS, by adding a Paragraph P as follows:

Each Fall conduct an inventory as instructed by WCCLS of the number of copies and versions of all WCCLS purchased software licenses in use by each WILInet User and report results of the inventory to WCCLS by the November WILInet Users' Group meeting.

Amend Section 10, COST ALLOCATION FORMULA, Paragraph B, beginning on line 6, as follows:

These WILInet Users shall receive an invoice from WCCLS by April 1 of the next year for *10%* of the annual cost, which shall be paid by June 30.

This amendment shall become effective June 30, 2002.

In performing the above, it is understood and agreed that all other terms and conditions of the original Agreement are still in effect.

FOR WASHINGTON COUNTY:

Name

Title

Date

FOR THE CONTRACTOR:

Name

Title

Date

Approved as to form: _____
Assistant County Counsel

EXHIBIT A: COST ALLOCATION FORMULA

page 1

Shared Operating Cost: \$1,089,574

	Composite Percentage	Total Annual Cost Share
Outreach	0.75	\$8,125
Banks	1.32	\$14,373
Beaverton	26.51	\$288,819
Cedar Mill	13.13	\$143,029
Cornelius	1.56	\$17,025
Forest Grove	6.59	\$71,819
Garden Home	1.27	\$13,812
Hillsboro/Tanasbourne/Books By Rail	25.09	\$273,337
OR College of Art & Craft	0.49	\$5,344
Sherwood	2.51	\$27,305
Tigard	11.54	\$125,684
Tualatin	5.62	\$61,253
Tuality Health Info. Resource Ctr.	0.34	\$3,715
West Slope	3.30	\$35,933
Total	100.00	\$1,089,574

NOTES:

Operating cost: Total WCCLS Automation Program budget as requested FY02-03
 MINUS cost-recovery services (purchase of peripherals for member libraries,
 postage/printing of notices).

	licenses in use as of 31 DEC 01	percent of total	calendar yr circulation 2001	percent of total	titles as of 31 DEC 01	percent of total
Banks	8	1.20	31,043	0.55	15,782	1.76
Beaverton	206	31.02	1,561,740	27.82	196,184	21.89
Cedar Mill	103	15.51	860,353	15.33	121,912	13.60
Cornelius	13	1.96	40,562	0.72	21,002	2.34
Forest Grove	29	4.37	210,085	3.74	86,711	9.67
Garden Home	7	1.05	102,257	1.82	11,897	1.33
Hillsboro/Tanasb./BBR	148	22.29	1,512,887	26.95	213,854	23.86
OR Coll. Art & Craft	5	0.75	4,733	0.08	7,641	0.85
Outreach	8	1.20	19,277	0.34	9,040	1.01
Sherwood	12	1.81	166,850	2.97	24,417	2.72
Tigard	79	11.90	629,010	11.21	98,681	11.01
Tualatin	24	3.61	282,963	5.04	51,727	5.77
Tuality Health Ctr	1	0.15	3,266	0.06	5,159	0.58
West Slope	21	3.16	188,500	3.36	32,341	3.61
Total	664	100.00	5,613,526	100.00	896,348	100.00

	holdings as of 31 DEC 01	percent of total	patrons as of 31 DEC 01	percent of total	volumes added in calendar 2001	percent of total
Banks	20,506	1.77	2,504	0.69	3062	1.93
Beaverton	268,267	23.20	111,417	30.84	38,512	24.28
Cedar Mill	165,389	14.30	29,747	8.23	18,700	11.79
Cornelius	23,523	2.03	4,485	1.24	1,707	1.08
Forest Grove	109,445	9.46	20,862	5.77	10,354	6.53
Garden Home	13,602	1.18	1,979	0.55	2,663	1.68
Hillsboro/Tanasbourne/BBR	285,567	24.69	98,562	27.28	40,369	25.45
OR Coll. Art & Craft	8,182	0.71	870	0.24	483	0.30
Outreach	9,655	0.83	1,835	0.51	912	0.57
Sherwood	26,891	2.33	8,629	2.39	4,472	2.82
Tigard	117,043	10.12	44,912	12.43	19,904	12.55
Tualatin	62,670	5.42	26,923	7.45	10,206	6.43
Tuality Health Ctr	6,086	0.53	613	0.17	897	0.57
West Slope	39,568	3.42	7,951	2.20	6,403	4.04
Total	1,156,394	100.00	361,289	100.00	158,644	100.00

AGENDA ITEM # _____
FOR AGENDA OF May 28, 2002

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE: Award of Contract for the Construction of Bonita Road Sanitary Sewer Improvements

PREPARED BY: Vannie Nguyen DEPT HEAD OK: A.P. Duenas CITY MGR OK: Bill Monahan

ISSUE BEFORE THE COUNCIL

Shall the Local Contract Review Board approve the contract award for the construction of Bonita Road Sanitary Sewer Improvements?

STAFF RECOMMENDATION

Staff recommends that the Local Contract Review Board, by motion, approve the contract award to **Kerr Contractors** in the amount of **\$129,490.00**.

INFORMATION SUMMARY

The existing sanitary sewer system on Bonita Road that begins approximately 500 feet west of 76th Avenue runs in an easterly direction and connects to the USA 60-inch interceptor at Milton Court. The existing 8-inch asbestos cement pipe between 2 existing manholes has poor grade and is sagging at several locations along the line. This line has required monthly cleaning for many years. This section of pipe is approximately 250 feet long and is encased in a 12-inch steel pipe when it crosses Fanno Creek.

This project proposes to replace the existing 8-inch pipe with a 10-inch pipe at a moderate slope to provide a better flow line between the two existing manholes. The new pipe, which consists of a 10-inch High-Density Polyethylene (HDPE) carrier pipe inside an 18-inch steel casing, will be bored under the creek. The Oregon Division of State Lands (DSL) and the US Army Corps of Engineers (Corps) permits have been obtained. There is no construction easement required for the project. Also included in the project is the installation of wetland mitigation work required by the permits.

This project was first advertised for bids on August 31, 2000, and was re-advertised on June 26, 2001. However, bids submitted at each bid opening were extremely high. In the Council meetings of September 26, 2000 and July 24, 2001, the Local Contract Review Board rejected all bid proposals.

In order to prevent possible overflows and backups in the last 2 years, a temporary pipe was installed in November 2000 to bypass the damaged section of the existing pipe.

The project was re-bid for the third time on April 22, 2002. The bid opening was conducted on May 6, 2002. The bid results are:

Kerr Contractors	Tualatin, OR	\$129,490.00
Stadeli Underground	Silverton, OR	\$143,504.99
Oregon Siteworks	Aloha, OR	\$148,000.00
Canby Excavating	Canby, OR	\$177,488.65
Engineer's Estimate		\$124,700

OTHER ALTERNATIVES CONSIDERED

None

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

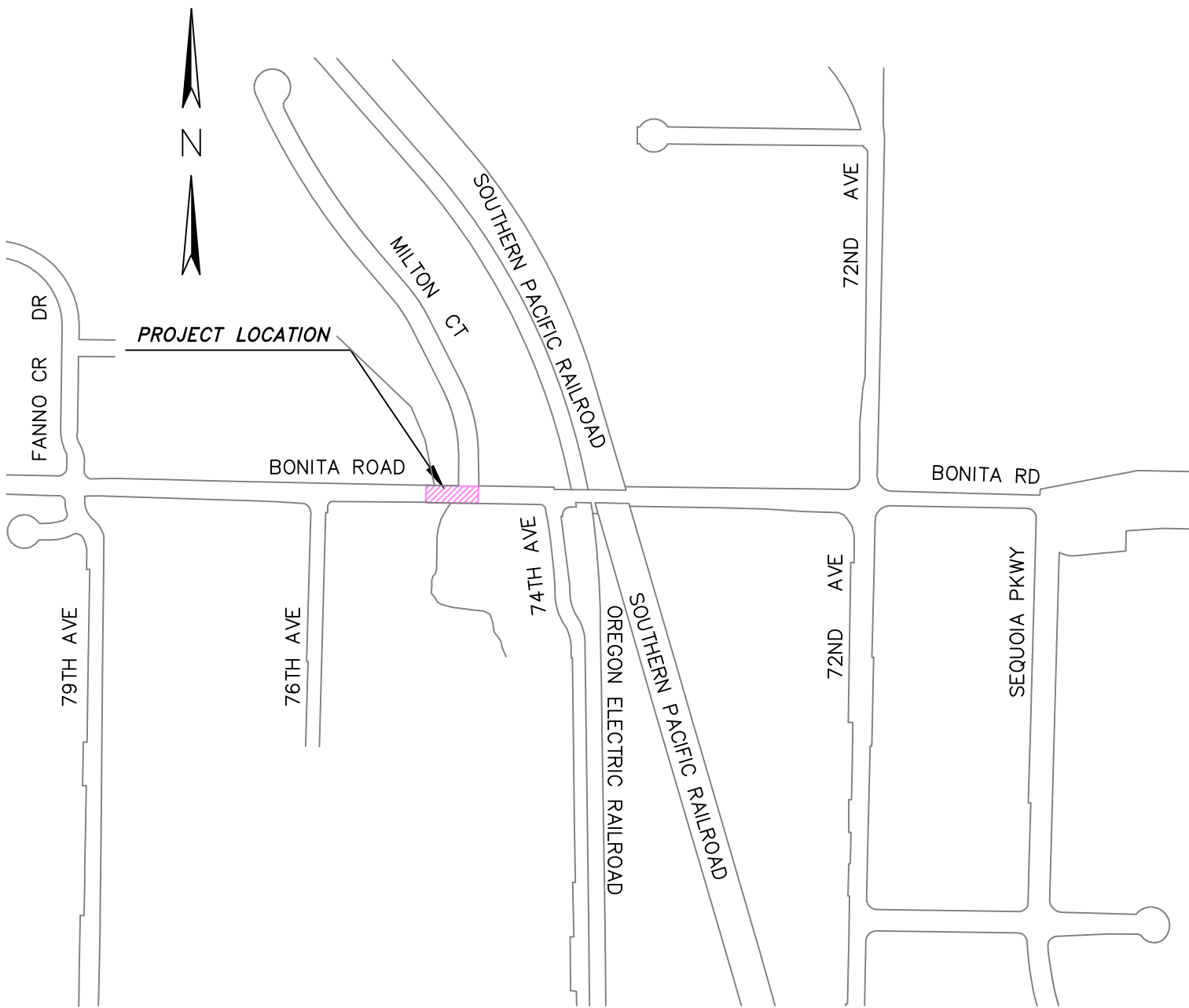
None

ATTACHMENT LIST

Project location map

FISCAL NOTES

This project is funded in the amount of \$125,000 in the FY 2001-02 CIP Sanitary Sewer System Program for the Bonita Road at Milton Court project. The low bid exceeds the budgeted amount by \$4,490. The additional amount will be funded from the Sanitary Sewer Major Maintenance Program, which is budgeted at \$80,000 for sanitary sewer repairs and replacements.



AGENDA ITEM # _____
FOR AGENDA OF May 28, 2002

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Planned Development Density Bonus Limitation Amendment (ZOA 2002-00001)

PREPARED BY: Morgan Tracy DEPT HEAD OK _____ CITY MGR OK _____

ISSUE BEFORE THE COUNCIL

Should the Council approve a requested Zone Ordinance Amendment to amend the provisions of the planned development and tree removal chapters to limit the ability to seek density bonuses for providing open space or preserving trees in sensitive land areas?

STAFF RECOMMENDATION

Staff recommends approving the requested Zone Ordinance Amendment as recommended by motion by the City of Tigard Planning Commission.

INFORMATION SUMMARY

The City Council and Planning Commission requested that staff examine the City's current Planned Development Ordinance. Staff provided analysis of planned development purpose and methodology. Based on discussion with the Commission, the direction was to focus on issues related to density bonuses on constrained development sites. The Commission expressed concern with the quality of the sites that were being developed, that these properties were unsuitable to the level of development being proposed.

The proposed amendment will remove density bonus incentives for providing open space or preserving trees in areas constrained by sensitive lands (wetlands, flood plains, steep slopes, and drainageways). Density bonus incentives will remain for providing common open space and preserving trees outside these sensitive land areas.

On April 22, 2002, the Tigard Planning Commission held a public hearing on the item. They recommended approval of the amendment by a unanimous vote. Owners of property that are large enough to be further developed and that contain sensitive lands have been sent individual notice in accordance with Measure 56. Notice procedures in the development code including publication of notice in the paper, and written notice to the appropriate agencies were met.

The proposal makes the following recommendations:

- Adding the proviso that density bonuses for preserving open space is exclusive of open space in sensitive land areas [Section 18.350.100 (B)(2)].
- Adding a similar proviso for restricting density bonuses for preserving trees within sensitive land areas. [Section 18.790.040(A)(1)].

Attached as "**Attachment 1**" is the ordinance adopting the proposal. The Planning Commission recommendation and meeting minutes are attached as "**Attachment 2**".

OTHER ALTERNATIVES CONSIDERED

Deny the request or approve it with revisions.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

1. “Community Character and Quality of Life”- Develop strategies to balance needs of new and infill development with need to provide preservation and protection of open space, natural areas, and other defined aesthetic qualities valued by those who already live and work in Tigard.
2. “Growth and Growth Management” - Growth while protecting the character and livability of new and established areas while providing for natural environment and open space throughout the community.

ATTACHMENT LIST

Attachment 1: Ordinance adopting the code amendments
Exhibit A-1: Proposed language changes
Attachment 2: 4/22/02 “Draft” Planning Commission meeting minutes
Attachment 3: Staff Report to the Planning Commission

FISCAL NOTES

N/A

CITY OF TIGARD, OREGON

ORDINANCE NO. 02-

AN ORDINANCE AMENDING THE LANGUAGE OF THE TIGARD COMMUNITY DEVELOPMENT CODE CHAPTER 18.350 SECTION 100(B)(2) AND CHAPTER 18.790 SECTION 040(A)(1) TO RESTRICT DENSITY BONUS INCENTIVES FOR PRESERVING TREES OR OPEN SPACE IN FLOODPLAINS, STEEP SLOPES, DRAINAGEWAYS, AND WETLANDS THROUGHOUT THE CITY OF TIGARD.

WHEREAS, the City of Tigard City Council initiated a Zone Ordinance Amendment to address density bonus incentives granted in Planned Development projects involving sensitive land areas, such as floodplains, steep slopes, drainageway and wetlands, and to limit the ability to seek density bonuses for providing open space and preserving trees in these areas; and

WHEREAS, the City of Tigard Planning Commission held a public hearing on April 22, 2002 and recommended approval of the proposed amendment by motion and an unanimous vote in favor; and

WHEREAS, the City Council held a public hearing on the request on May 28, 2002 and indicated they were supportive of the proposed zone change and directed staff to prepare language and an Ordinance for Council review and approval; and

WHEREAS, the City Council determined that the proposed language adequately addressed concerns regarding protecting sensitive land resources as well as continuing to provide suitable incentives for providing open space and preserving trees; and

WHEREAS, the City Council has considered the applicable Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197; any federal or state statutes or regulations found applicable; any applicable Metro regulations; any applicable Comprehensive Plan Policies; and any applicable provisions of the City's implementing ordinances; and

WHEREAS, the City Council has found the following to be the only applicable review criteria: Community Development Code Chapters 18.380, 18.390 and 18.765; Comprehensive Plan Policies 1.1.1, 2.1.1, 2.1.2, and 2.1.3; The Metro 2040 Plan; and Statewide Planning Goals 1, 2, 5 and 10; and

WHEREAS, the City Council has determined that the proposed zone ordinance amendment is consistent with the applicable review criteria and that approving the request would be in the best interest of the City of Tigard.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: The specific text amendments attached as "EXHIBIT A-1" to this Ordinance are hereby adopted and approved by the City Council.

SECTION: This ordinance shall be effective 30 days after its passage by the Council, signature by the Mayor, and posting by the City Recorder.

PASSED: By _____ vote of all Council members present after being read by number and title only, this _____ day of _____, 2002.

Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this _____ day of _____, 2002.

James E. Griffith, Mayor

Approved as to form:

City Attorney

Date

ZOA 2002-00001

PLANNED DEVELOPMENT DENSITY BONUS LIMITATION AMENDMENT PROPOSED DEVELOPMENT CODE TEXT CHANGES

ADDITIONS: Indicated by UNDERLINE & **SHADING**

(Additionally, a bar in the far right margin also indicates where a change has been made. Example: → |)

Planned Developments 18.350

18.350.100 Approval Criteria

- B. Specific planned development approval criteria. The Commission shall make findings that the following criteria are satisfied when approving or approving with conditions, the concept plan. The Commission shall make findings that the criteria are not satisfied when denying an application.
2. Except as noted, the provisions of the following chapters shall be utilized as guidelines. A planned development need not meet these requirements where a development plan provides alternative designs and methods, if acceptable to the Commission, that promote the purpose of this section. In each case, the applicant must provide findings to justify the modification of the standards in the chapters listed in Subsection 3 below. The developer may choose to provide or the commission may require additional open space dedication and/or provision of additional amenities, landscaping or tree planting.
 - a. Chapter 18.715, Density Computation and Limitations. Unless authorized below, density shall be governed by the density established in the underlying zoning district. The Commission may further authorize a density bonus not to exceed 10% as an incentive to increase or enhance open space, architectural character and/or site variation incorporated into the development. These factors must make a substantial contribution to objectives of the planned development. The degree of distinctiveness and the desirability of variation achieved shall govern the amount of density increase which the Commission may approve according to the following:
 - (1) A maximum of 3% is allowed for the provision of undeveloped common space, exclusive of areas contained in floodplain, slopes greater than 25%, drainageways, or wetlands that would otherwise be precluded from development;
 - (2) A maximum of 3% is allowed for landscaping; streetscape development; developed open spaces, plazas and pedestrian pathways and related amenities; recreation area development; and/or retention of existing vegetation;
 - (3) A maximum of 3% is allowed for creation of visual focal points; use of existing physical amenities such as topography, view, and sun/wind orientation;
 - (4) A maximum of 3% quality of architectural quality and style; harmonious use of materials; innovative building orientation or building grouping; and/or varied use of housing types.

Tree Removal 18.790

18.790.040 Incentives for Tree Retention

- A. Incentives. To assist in the preservation and retention of existing trees, the Director may apply one or more of the following incentives as part of development review approval and the provisions of a tree plan according to Section 18.790.030:
1. Density bonus. For each 2% of canopy cover provided by existing trees over 12 inches in caliper that are preserved and incorporated into a development plan, a 1% bonus may be applied to density computations of Chapter 18.715. No more than a 20% bonus may be granted for any one development. The percentage density bonus shall be applied to the number of dwelling units allowed in the underlying zone. This bonus is not applicable to trees preserved in areas of floodplain, slopes greater than 25%, drainageways, or wetlands that would otherwise be precluded from development.

**CITY OF TIGARD
PLANNING COMMISSION
Meeting Minutes
April 22, 2002**

1. CALL TO ORDER

President Padgett called the meeting to order at 7:00 p.m. The meeting was held in the Tigard Civic Center, Town Hall, at 13125 SW Hall Blvd.

2. ROLL CALL

Commissioners Present: President Padgett; Commissioners Anderson, Bienerth, Buehner, Mores, Scolar, Sutton, Webb, and Wolch (alternate)

Commissioners Absent: Commissioner Munro

Staff Present: Dick Bewersdorff, Planning Manager; Morgan Tracy, Associate Planner; Jerree Gaynor, Planning Commission Secretary

3. PLANNING COMMISSION COMMUNICATIONS

- The annual event to honor City volunteers is a family picnic scheduled for July 18, 2002, at Cook Park. Food will be provided by the City and the Tualatin Valley Community Band will perform.

4. APPROVE MEETING MINUTES

Commissioner Buehner moved and Commissioner Webb seconded the motion to approve the March 18, 2002, meeting minutes as submitted. A voice vote was taken and the motion passed by a vote of 6-0. Commissioners Anderson and Mores abstained.

5. PUBLIC HEARING

5.1 ZONE ORDINANCE AMENDMENT (ZOA) 2002-00001

PLANNED DEVELOPMENT DENSITY BONUS LIMITATION AMENDMENT

REQUEST: A request to amend the Planned Development requirements within the Tigard Development Code to limit the ability to grant density bonuses for areas constrained by sensitive lands (steep slopes greater than 25%, wetlands, drainageways, or 100-year floodplain). The amendment request is based on the present ability to seek density bonuses for preserving trees or open space in these constrained and otherwise undeveloped areas. **LOCATION:** Citywide.

ZONE: N/A. **APPLICABLE REVIEW CRITERIA:** Statewide Planning Goals 1, 2, 5 and 10; and Community Development Code Chapters 18.350, 18.380, 18.390 and 18.790.

STAFF REPORT

Associate Planner Morgan Tracy presented the staff report on behalf of the City. He explained that this amendment results from a January 28, 2002 work session to review the planning development process and specifically identify areas of concern regarding density bonuses granted to projects that preserve open space and trees in sensitive land areas. As the land supply in Tigard grows increasingly limited, sites constrained by identified sensitive areas are more likely to be developed. Currently, the code allows developers to increase the density of a project by setting aside these constrained areas in common open spaces. Further density bonuses are allowed for the preservation of trees in wetland buffers. It was determined that because these areas are protected separately in other sections throughout the code, the developer should not get a bonus for preserving land already required to be protected. In addition, the tree ordinance provides incentive for tree preservation. The proposed code revisions alter the density bonus allowances by eliminating bonuses for land already constrained in other sections of the code. The revisions will not impact the amount of open space required or the amount of sensitive lands and trees required to be preserved and therefore staff recommends approval.

President Padgett noted that the original intent of the density bonus provisions was not to allow a planned development higher density ratios merely by leaving alone land that could not be developed anyway.

Commissioner Buehner asked if the revisions will trigger any issues under Dolan or Measure 7. Staff responded that the Dolan decision affects takings and does not apply here. The revisions do not decrease the amount of land allowable for development. Measure 7 is another question because it has not yet been fully resolved.

Staff advised that this matter goes before the City Council on May 28, 2002.

PUBLIC TESTIMONY

None

PUBLIC HEARING CLOSED

Commissioner Mores moved to make recommendation to the City Council to approve ZOA 2002-00001, based on the contents of the staff report and prior discussions of the Planning Commission. Commissioner Anderson seconded the motion. A voice vote was taken and the motion passed unanimously.

6. OTHER BUSINESS

- Commissioner Glenn Mores reported on the Transportation Financing Strategies Task Force. A street maintenance fee is being proposed. City Council approval will likely be achieved by this summer. The task force will be disbanding in July or August and therefore does not need another Planning Commission representative.
- Commissioner Judith Anderson gave a report on the Tree Board. The board has been meeting with City Forester Matt Stine to determine its direction. They are in the process of formulating the goals and objectives of the board. Projects include the designation of Tigard as a Tree City USA, Arbor Day events organized to take place Friday, May 26, at Templeton Elementary School, and a street tree inventory to determine the diversity of trees in the City. The board requests at least one other Planning Commission representative. If a commissioner is interested in being on the Tree Board, they should contact Susan Koepping. The next meeting is May 13, 2002, at 7:00 p.m.
- President Padgett commented that while it is important to have at least one Planning Commission member represented on each City committee, he does not want to pressure Commissioners to be on more than one committee or task force unless they desire it. Commissioner Anderson noted that the number of Planning Commission representatives on the Tree Board is required by the ordinance formulating the board.
- President Padgett proposed that Zone Ordinance Amendment 2002-00001 be referred to as the Nick Wilson Amendment in honor of the past Planning Commission president who advocated the amendment.
- The next Planning Commission meeting is schedule for May 20, 2002.

7. ADJOURNMENT

The meeting adjourned at 7:25 p.m.

Jerree Gaynor, Planning Commission Secretary

ATTEST: President Mark Padgett

STAFF REPORT TO THE
PLANNING COMMISSION
FOR THE CITY OF TIGARD, OREGON



SECTION I. APPLICATION SUMMARY

CASE NAME: CODE AMENDMENT TO LIMIT AVAILABLE DENSITY BONUSES IN THE PLANNED DEVELOPMENT AND TREE REMOVAL ORDINANCES.

CASE NO.: Zone Ordinance Amendment (ZOA) ZOA2002-00001

PROPOSAL: To amend the Planned Development requirements within the Tigard Development Code to limit the ability to grant density bonuses for areas constrained by sensitive lands (steep slopes, wetlands, drainageways, or 100 year floodplain). The amendment request is based on the present ability to seek density bonuses for preserving trees or open space in these constrained and otherwise undevelopable areas.

APPLICANT: City of Tigard
13125 SW Hall boulevard
Tigard, OR 97223

OWNER: N/A

ZONE: N/A.

LOCATION: Citywide.

**APPLICABLE
REVIEW**

CRITERIA: Community Development Code Chapters 18.380, 18.390 and 18.765; Comprehensive Plan Policies 1.1.1, 2.1.1, 2.1.2, and 2.1.3; The Metro 2040 Plan; and Statewide Planning Goals 1, 2, 5, and 10.

SECTION II. STAFF RECOMMENDATION

Staff recommends that the Planning Commission alter the Density Bonus allowances as determined through the public hearing process and make a recommendation to the Tigard City

Council.

SECTION III. BACKGROUND INFORMATION

The Planned Development ordinance is a collection of flexible decision making tools to enable development that is site specific and not mathematically prescribed. Tigard adopted its planned development ordinance to enable flexibility in design and encourage innovative development of both infill and large parcels. Some minimum standards were adopted to avoid a possible abuse of that flexibility. The ordinance remains relatively “loose” on a number of other standards to encourage developers to use the PD process, and relies on the Planning Commission to ensure that the more subjective standards are met by the overall project.

The City Council and Planning Commission requested that staff examine the City’s current Planned Development Ordinance to address issues related to density bonuses on constrained development sites. The Commission expressed concern with the quality of the sites that were being developed, that these properties were unsuitable to the level of development being proposed.

Staff met with the Commission in a study session on January 28, 2002 to discuss these issues. The consensus was that density bonuses were being granted for protecting areas that could not be otherwise developed due to environmental constraints. In other words, the development was receiving a benefit (the density bonus) for simply complying with other sections of the code (sensitive lands and tree removal) and not for providing an amenity above and beyond what would typically be required.

The proposed code revisions address these concerns by exempting sensitive land areas from being eligible for additional density bonuses as shown in Exhibit A, attached.

SECTION IV. SUMMARY OF APPLICABLE CRITERIA

Chapter 18.380 states that legislative text amendments shall be undertaken by means of a Type IV procedure, as governed by Section 18.390.060G.

Chapter 18.390.060G states that the recommendation by the Commission and the decision by the Council shall be based on consideration of the following factors:

- ♦ **The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197;**

Notice was provided to DLCD 45 days prior to the first scheduled public hearing as required. In addition, the Tigard Development Code and Comprehensive Plan have been acknowledged by DLCD. The following are the applicable Statewide Planning Goals that are applicable to this proposal:

Statewide Planning Goal 1 – Citizen Involvement:

This goal outlines the citizen involvement requirement for adoption of Comprehensive Plans and for changes to the Comprehensive Plan and implementing documents. This goal has been met by complying with the Tigard Development Code notice requirements set forth in Chapter 18.390. Notice has been published in the Tigard Times Newspaper prior to the public hearing. Notice was sent to 226 affected properties. Two Public Hearings are held (one before the Planning Commission and the second before the City Council) in which public input is welcome. The City CIT members were also notified of the proposed changes.

Statewide Planning Goal 2 – Land Use Planning:

This goal outlines the land use planning process and policy framework. The Comprehensive Plan was acknowledged by DLCD as being consistent with the statewide planning goals. The Development Code implements the Comprehensive Plan. The Development Code establishes a process for and policies to review changes to the Development Code consistent with Goal 2. The City's plan provides analysis and policies with which to evaluate a request for amending the Code consistent with Goal 2.

♦ Any applicable Metro regulations;

Title 1: (Metro code 3.07.110-3.07.170)

Requirements for Housing and Employment Accommodation

State law and the Metro Code require that the Metro Urban Growth Boundary have sufficient capacity to accommodate the expected growth for 20 years. It is Metro's policy to minimize the amount of growth boundary expansion. The Metro 2040 Growth Concept calls for more compact development and higher levels of density as a means to encourage more efficient use of the existing land supply within the UGB. Section 3.07.120 stipulates that sites be developed at a minimum density of 80% of the maximum density allowed for the net acreage being developed.

Tigard's Development Code complies with this requirement through its minimum density requirements found in TDC Chapter 18.715. The proposed amendment would not affect compliance with the Metro requirement as Section 3.07.120 (5) of the Metro Code notes that "the maximum zoned density does not include the density bonus for zones that allow them." How density bonuses are or are not granted is not within the purview of Metro's Regional Functional Plan. The Plan relies on the planned densities, based on the zoning designations, and requires that those densities not drop below the set 80% level. Densities in excess of the planned level (authorized through density bonuses) only act to contribute to Tigard's overall target capacity for 2017. The limiting of these bonuses will not affect compliance with Metro's Code.

♦ Applicable Comprehensive Plan Policies:

Comprehensive Plan Policy 1.1.1:

This policy states that all future legislative changes shall be consistent with the Statewide Planning Goals and the Regional Plan adopted by Metro. As indicated above under the individual Statewide and Regional Plan goals applicable to this proposed amendment, the amendment is consistent with the Statewide Goals and the Regional Plan.

Comprehensive Plan Policy 2.1.1:

This policy states that the City shall maintain an ongoing citizen involvement program and shall assure that citizens will be provided an opportunity to be involved in all phases of the planning process. This policy is satisfied because notice of the proposed amendment was mailed to all Citizen Involvement Team (CIT) Members and the amendment was discussed at a regular monthly CIT meeting. Two hundred and twenty six notices were mailed to owners of property that may be affected by the proposed amendment. In addition, notice was published in the Tigard Times of the Public Hearing and notice will be published again prior to the City Council public hearing. Public input has been invited in the notice.

Comprehensive Plan Policy 2.1.2 and 2.1.3:

In pertinent part, this policy states that the Citizen Involvement Team program and the Citizen Involvement Team Facilitators shall serve as the primary means for citizen involvement in land use planning. Policy 2.1.3 states that information on land use planning issues shall be available in understandable form. These policies were satisfied because notice of the proposed amendment was mailed to all Citizen Involvement Team (CIT) Members and the amendment was discussed at a regular monthly CIT meeting. The written notices were written in plain understandable form, and included phone numbers and a contact person for anyone who may have questions.

- ♦ **Any applicable provision of the City's implementing ordinances.**

Code Section 18.350:

This chapter establishes procedures and criteria for establishing Planned Development Overlay Zones. The purpose of this chapter is to provide a means for creating planned environments through the application of flexible standards and other innovative planning practices which will result in a superior living arrangement; facilitate the efficient use of land; promote an economic arrangement of land use, buildings, circulation systems, open space, and utilities; preserve to the greatest extent possible the existing landscape features and amenities through the use of a planning procedure that can relate the type and design of a development to a particular site; and encourage development that recognizes the relationship between buildings, their use, open space, and accessways and thereby maximizes the opportunities for innovative and diversified living environments.

The proposed amendment will not affect the ability for planned developments to provide open space or protect trees, but does remove density bonus incentives for providing open space or preserving trees in sensitive land areas. Density bonus incentives will remain for providing common open space and preserving trees outside sensitive land areas.

Code Section 18.380:

This section regulates amendments. It outlines the process for reviewing Development Code Text Amendments. The present amendment will be reviewed under the Type IV legislative

procedure as set forth in the chapter.

Code Section 18.390:

This chapter establishes standard decision-making procedures for reviewing applications. The amendment under consideration will be reviewed under the Type IV legislative procedure as detailed in the chapter.

SECTION V. STAFF ANALYSIS

Density bonuses are a tool employed in the development code to encourage the provision of certain features or project amenities. In Tigard, the density bonus tool is used in Planned Developments to encourage:

- ◆ Undeveloped common open space
- ◆ Landscaping; streetscape development; developed open spaces, plazas and pedestrian pathways and related amenities; recreation area development; and/or retention of existing vegetation;
- ◆ Creation of visual focal points; use of existing physical amenities such as topography, view, and sun/wind orientation;
- ◆ Quality of architectural quality and style; harmonious use of materials; innovative building orientation or building grouping; and/or varied use of housing types;
- ◆ Preservation of tree canopy cover.

By allowing for additional density, there is a fiscal benefit to the developer who may yield additional residential units. These additional units provide a level of profit that offsets the potential cost of providing the amenity. In the Tigard Development Code, a maximum 10% density bonus is allowed in Planned Developments for these amenities (up to 3% of which is allowed by providing common open space), and the tree ordinance authorizes up to an additional 10% density bonus for preserving tree canopy.

As the vacant land supply in Tigard grows more and more limited, the remaining development sites typically have more environmental constraints, such as wetlands, streams, floodplains, and steep slopes. While these sensitive lands are deducted from the gross developable acreage for the purpose of calculating allowable density, development of these sites requires careful site planning and greater flexibility in the development standards in order to balance environmental protection and minimum density requirements. It should be noted that for steep slopes, drainageways, and floodplains, 25% of the density in these areas may be transferred back to the developable portions of the site, in addition to any density bonuses that may be granted.

Currently, the code allows developers to set aside these constrained areas in common open space and benefit from possible increases in density for the whole project. Also, wetland and stream corridor buffers are typically heavily treed and thus, the preservation of these trees enables further density bonuses.

By eliminating the use of sensitive land areas for achieving density bonuses, what are the possible impacts for future developments? Sensitive land areas are protected through Chapter 18.775 of the development code and tree protection is provided in Chapter 18.790. For

sensitive lands, the code provisions prevent the construction of structures in wetlands and drainageways and their buffer areas, as well as in floodplains. Steep slopes may still be developed, with greater restrictions on the methods of construction. The restrictions of Chapter 18.775 do not require that these sensitive areas be set aside in common open space, however.

Without the incentives of a density bonus, these sensitive land areas may no longer be set aside in private open space tracts. As a result, their continued maintenance will be at the discretion of a single property owner and not a homeowner's association. Another consideration is that these constrained development parcels will not be able to regain residential units for land that is otherwise undevelopable. As a result, infill development may be closer to what existing surrounding densities are. Also, by eliminating density bonuses for constrained land, developers may choose to provide usable open space to obtain the density bonus.

Tree preservation is ensured through a different approach. Rather than a blanket restriction on the removal of trees, the code provides a fiscal incentive for protecting trees through increasing mitigation requirements. The more trees that are removed, a higher percentage of trees to be replaced is imposed, and thus the cost for this mitigation increases. Eliminating density bonus allowances for trees retained in sensitive lands will likely have no negative impact to tree retention since these trees can be counted towards reducing the overall mitigation requirements and are also protected through the sensitive lands chapter of the code. The proposed amendment will still enable density bonuses for tree canopy retained outside these already protected areas as the amendment only pertains to sensitive lands.

SECTION VI. OTHER ALTERNATIVES

No Action - The standard would remain that would permit applicants to seek density bonuses of up to 3% for providing open space and up to 20% for preserving tree canopies in areas of steep slopes, 100 year floodplain, wetlands, and drainageways.

Expanded Action – Limit density bonuses in all situations, without any qualification on the location of the open space or tree canopy.

Alternate Action – Impose a minimum open space area requirement for all planned developments, and include the density bonus incentive for providing open space beyond the minimum requirement.

SECTION VII. ADDITIONAL CITY STAFF & OUTSIDE AGENCY COMMENTS

The City of Tigard Forester responded that in addition to limiting density bonuses in sensitive land areas, calculating the amount of required tree mitigation should not include trees preserved in these areas.

The City of Tigard Long Range Planning Division has had an opportunity to review this proposal and has no objections.

The City of Tigard Engineering Department, Metro, Oregon Department of Environmental Quality, Oregon Department of Fish and Wildlife, Oregon Department of Land Conservation and Development, Oregon Department of Transportation, Washington County Department of Land Use and Transportation, and all four Citizen Involvement Teams were notified of the proposed amendment and did not respond.

ATTACHMENT:

Exhibit A – Proposed Development Code Text Changes

PREPARED BY: MORGAN TRACY
Associate Planner

April 12, 2002
DATE

APPROVED BY: DICK BEWERSDORFF
Planning Manager

April 12, 2002
DATE

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE: 68th Parkway @ Atlanta Street Public Right-of-Way Vacation (VAC2002-00001).

PREPARED BY: Mathew Scheidegger DEPT HEAD OK _____ CITY MGR OK _____

ISSUE BEFORE THE COUNCIL

Should the City Council vacate an approximately 1,915 square foot portion of public right-of-way commonly known as SW 68th Parkway?

STAFF RECOMMENDATION

It is recommended that Council approve the vacation as requested by adopting the attached Ordinance (Attachment 1) .

INFORMATION SUMMARY

The City Council initiated this Vacation on March 26, 2002 (Attachment 2, Resolution No. 02-20) to consider the above vacation request. The next step in the process is for the City Council to hold a public hearing.

AKS Engineering & Forestry, the agent for the adjacent property owner Malcolm Eslinger, is requesting that the City Council vote in favor of vacating a portion of SW 68th Parkway at SW Atlanta Street. In summary, this will make it easier for the owner of the adjacent parcel to the west (Eslinger) to develop according to the Tigard Triangle Design Standards. Without the proposed vacation of right-of-way, the adjacent property owner could not meet the Triangle's 0-10 foot setback standard without applying for a variance. However, a public storm line lies within the northeast corner of the public right-of-way to be vacated. A public storm water easement will be granted to the City concurrently with the right-of-way vacation, that will encompass approximately 7.5 feet on both sides of the existing stormpipe. The right-of-way width is currently 70 feet from centerline at the intersection of SW 68th Parkway and SW Atlanta Street. The Tigard Triangle Standard width for SW 68th Parkway is approximately 35 feet from centerline. Therefore, the requested vacation would meet the right-of-way width standards for the Tigard Triangle except for a 37.5 square foot portion of the Eslinger property. To rectify this, the applicant has proposed to dedicated the 37.5 square foot portion of right-of-way needed to comply with Triangle street standards. Appropriate agencies have been contacted for their comments prior to developing a report for Council consideration.

OTHER ALTERNATIVES CONSIDERED

Take no action at this time.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Not applicable.

ATTACHMENT LIST

Attachments: Attachment 1 – Proposed Ordinance.
Attachment 2 – Resolution No. 02-20 Initiating the Vacation.

FISCAL NOTES

There are no direct fiscal impacts as a result of this request as all fees have been paid by the applicant.

CITY OF TIGARD, OREGON

ORDINANCE NO. 02- _____

AN ORDINANCE CONCERNING THE VACATION OF APPROXIMATELY 1,915 SQUARE FEET OF PUBLIC RIGHT-OF-WAY ON SW 68TH PARKWAY, IN THE CITY OF TIGARD, WASHINGTON COUNTY, OREGON (VAC2002-00001).

WHEREAS, the approximately 1,915 square foot portion of the road had previously been dedicated to the public; and

WHEREAS, the applicant has requested that the City of Tigard vacate an approximately 1,915 square foot portion of public right-of-way, as described in Exhibit "A" and shown in Exhibits "B" and "C" better known as SW 68th Parkway; and

WHEREAS, the said portion of public right-of-way may no longer be necessary; and

WHEREAS, a public storm water easement will be granted to the City of Tigard concurrently with the right-of-way vacation for the public storm line, which lies within the northeast corner of the public right-of-way to be vacated as described in Exhibit "D" and shown in Exhibit "E"; and

WHEREAS, a 37.5 square foot portion of the adjoining property to the west will be dedicated to the City of Tigard in order to be consistent with the required 35 feet of right-of-way needed from the centerline of SW 68th Parkway for the Tigard Triangle; as described in Exhibit "F" and shown in Exhibit "G"; and

WHEREAS, the Tigard City Council finds it appropriate to vacate the requested public right-of-way vacation.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: The Tigard City Council hereby orders the vacation of an approximately 1,915 square foot portion of public right-of-way commonly known as SW 68th Parkway, as more particularly described in Exhibit "A" and Exhibit "B" (legal description and map of the area to be vacated) and by reference, made a part hereof.

SECTION 2: This ordinance shall be effective 30 days after its passage by the Council, approval by the Mayor, and posting by the City Recorder.

PASSED: By _____ vote of all Council members present after being read by number and title only, this _____ day of _____, 2002.

Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this _____ day of _____, 2002.

Jim Griffith, Mayor

Approved as to form:

City Attorney

Date

Exhibit "A"

ENGINEERING PLANNING

13910 S.W. Galbreath Dr., Suite 100
Sherwood, OR 97140



SURVEYING

FORESTRY

TELEPHONE (503) 925-8799

FAX (503) 925-8969

E-MAIL: aks@aks-eng.com

EXHIBIT "A"

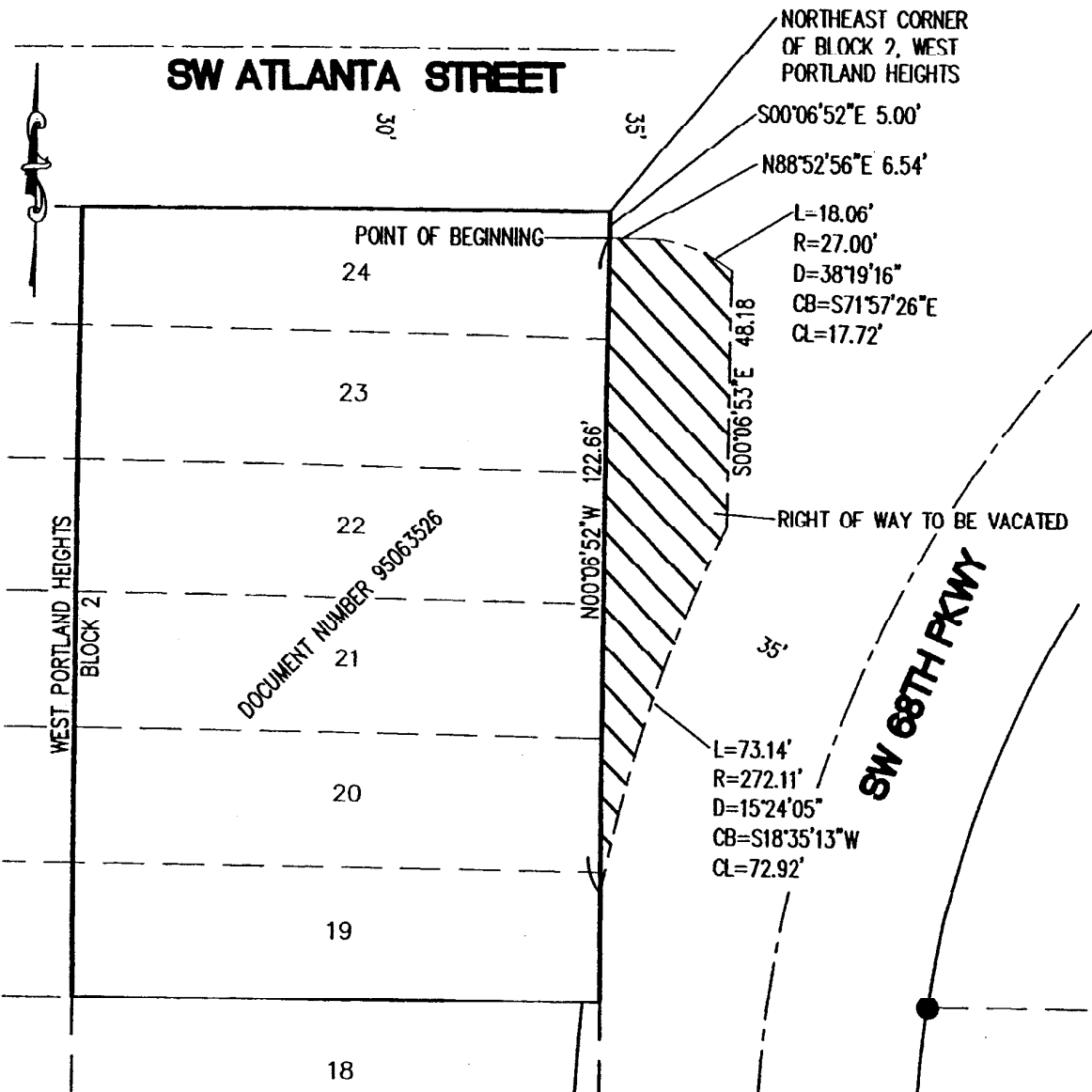
PUBLIC RIGHT-OF-WAY VACATION

A portion of the SW 68th Avenue public right-of-way located in the Southeast One-Quarter of Section 36, Township 1 South, Range 1 West, Willamette Meridian and in the City of Tigard, Washington County, Oregon, being more particularly described as follows:

Beginning at a point which is S00°06'52"E 5.00 feet, along the east line of Block 2, WEST PORTLAND HEIGHTS, from the Northeast corner of said Block; thence, N88°52'56"E 6.54 feet to a point; thence, along a non-tangent curve to the right with a radius of 27.00 feet, length of 18.06 feet, delta of 38°19'16", and long chord of S71°57'26"E 17.72 feet to a point; thence, S00°06'53"E 48.18 feet to a point; thence, along a tangent curve to the left, which lies parallel to and 35 feet from the centerline of SW 68th Avenue, and has a radius of 272.11 feet, length of 73.14 feet, delta of 15°24'05", and long chord of S18°35'13"W 72.92 feet to a point; thence, N00°06'52"W 122.26 feet along the east line of Block 2, WEST PORTLAND HEIGHTS, to the point of beginning.

The above described tract contains 1,915 square feet more or less. The basis of bearing is from found iron pipes along SW Baylor Street per the Plat of West Portland Heights.

Exhibit "B"



BASIS OF BEARING:
PLAT OF WEST PORTLAND HEIGHTS (BETWEEN
FOUND IRON PIPES ALONG SW BAYLOR STREET)

CITY OF TIGARD PLANNING DIVISION

CITY OF TIGARD

SITE PLAN

(Map is not to scale)



VAC2002-00001

**68TH PARKWAY @ ATLANTA STREET
PUBLIC RIGHT-OF-WAY VACATION**

Exhibit "C"



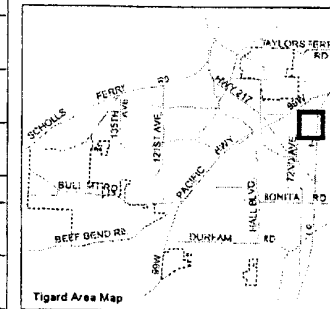
CITY of TIGARD

GEOGRAPHIC INFORMATION SYSTEM

VICINITY MAP

VAC2002-00001

68TH PARKWAY @
ATLANTA STREET
PUBLIC RIGHT-OF-WAY
VACATION



0 100 200 300 400 Feet

1"=317 feet



City of Tigard

Information on this map is for general location only and
should be verified with the Development Services Division.

13125 SW Hall Blvd

Tigard OR 97223

(503) 639-4171

<http://www.ci.tigard.or.us>

Plot date: Feb 27, 2002; C:\magic\MAGIC03.APR

Exhibit "D"

ENGINEERING PLANNING
13910 S.W. Galbreath Dr., Suite 100
Sherwood, OR 97140



SURVEYING FORESTRY
TELEPHONE (503) 925-8799
FAX (503) 925-8969
E-MAIL: aks@aks-eng.com

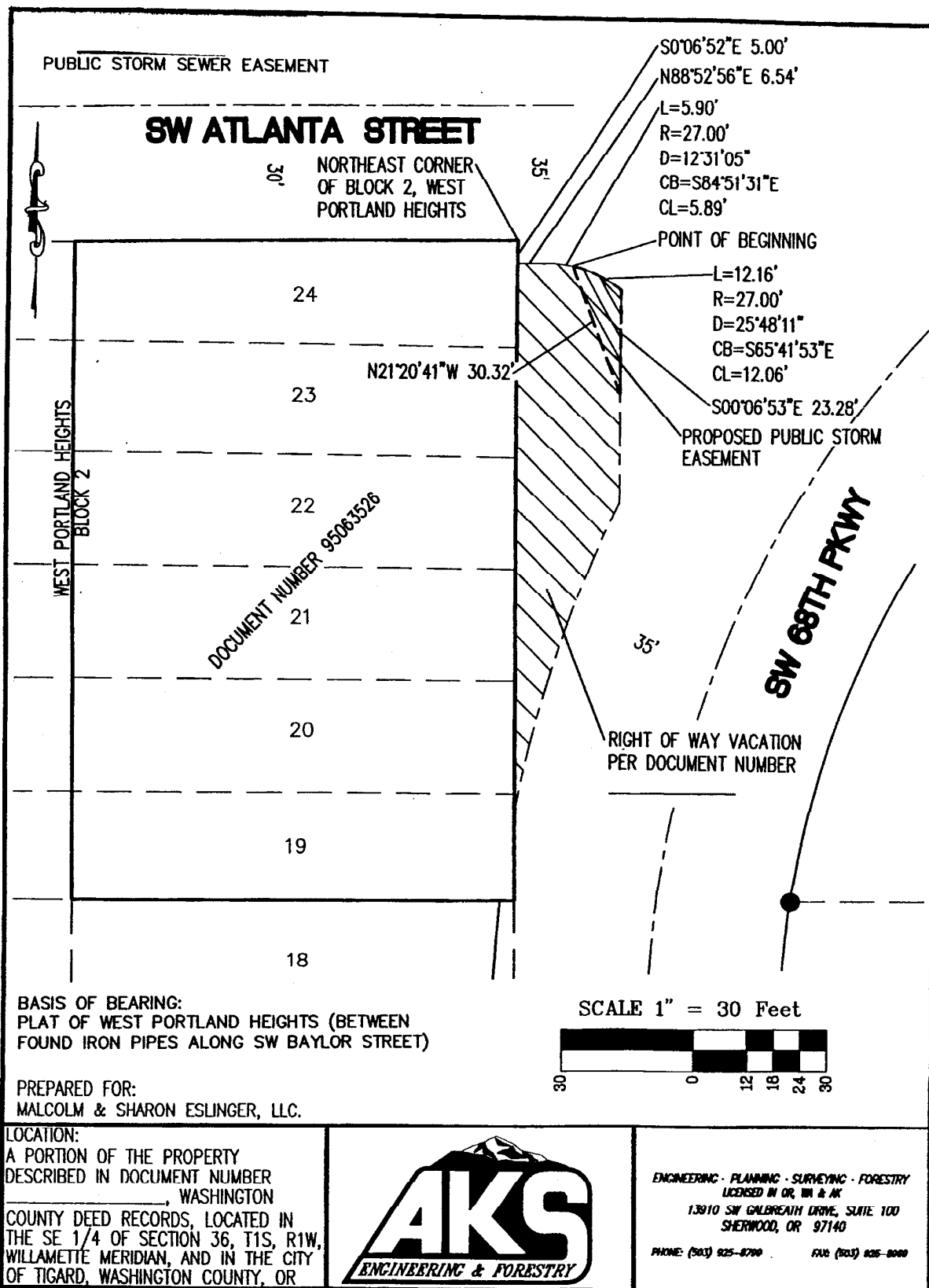
PUBLIC STORM SEWER EASEMENT

A portion of the property described in Document Number _____, Washington County Deed Records, located in the Southeast One-Quarter of Section 36, Township 1 South, Range 1 West, Willamette Meridian and in the City of Tigard, Washington County, Oregon, being more particularly described as follows:

Beginning at the Northeast corner of Block 2, WEST PORTLAND HEIGHTS, thence, S00°06'52"E 5.00 feet, along the western right-of-way line of SW 68th Avenue, to a point; thence, N88°52'56"E 6.54 feet to a point; thence, along a tangent curve to the right with a radius of 27.00 feet, length of 5.90 feet, delta of 12°31'05", and long chord of S84°51'31"E 5.89 feet to the TRUE POINT OF BEGINNING; thence, continuing along said curve to the right with a radius of 27.00 feet, length of 12.16 feet, delta of 25°48'11", and long chord of S65°41'53"E 12.06 feet to a point; thence, S00°06'53"E 23.28' to a point; thence, N21°20'41"W 30.32 feet to the point of beginning.

The above described tract contains 133 square feet more or less. The basis of bearing is from found iron pipes along SW Baylor Street per the Plat of West Portland Heights.

Exhibit "E"



ENGINEERING PLANNING

13910 S.W. Galbreath Dr., Suite 100
Sherwood, OR 97140

**SURVEYING****FORESTRY**

TELEPHONE (503) 925-8799
FAX (503) 925-8969
E-MAIL: aks@aks-eng.com

PUBLIC RIGHT-OF-WAY DEDICATION

A portion of lot 24, Block 2, West Portland Heights located in the Southeast One-Quarter of Section 36, Township 1 South, Range 1 West, Willamette Meridian and in the City of Tigard, Washington County, Oregon, being more particularly described as follows (see Exhibit "B"):

Beginning at the Northeast corner of Block 2, WEST PORTLAND HEIGHTS; thence, S00°06'52"E a distance of 5.00 feet to a point; thence, S88°52'56"W a distance of 99.96 feet to a point; thence, N00°06'52"W a distance of 5.00 feet to a point; thence, N88°52'56"E a distance of 99.96 feet to the point of beginning.

The above tract contains 500 square feet more or less. The basis of bearings is from found iron pipes along SW Baylor Street per the plat of West Portland Heights.

ALSO: A portion of lot 19, Block 2, West Portland Heights located in the Southeast One-Quarter of Section 36, Township 1 South, Range 1 West, Willamette Meridian and in the City of Tigard, Washington County, Oregon, being more particularly described as follows (see Exhibit "B"):

Beginning at a point which is S00°06'52"E a distance of 127.66 feet from the Northeast corner of Block 2, WEST PORTLAND HEIGHTS; thence S00°06'52"E 21.04 feet to a point; thence N90°00'00"W a distance of 3.24 feet to a point; thence, along a non-tangent curve to the right, which lies parallel to and 35 feet in a westerly direction from the centerline of SW 68th Avenue, and has a radius of 272.11 feet, length of 21.28 feet, delta of 4°28'54", and a long chord of N08°38'43"E 21.28 feet, to the point of beginning.

The above described tract contains 37 square feet more or less. The basis of bearings is from found iron pipes along SW Baylor Street per the plat of West Portland Heights.

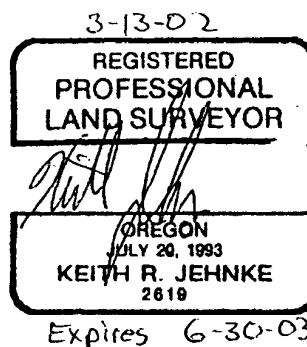
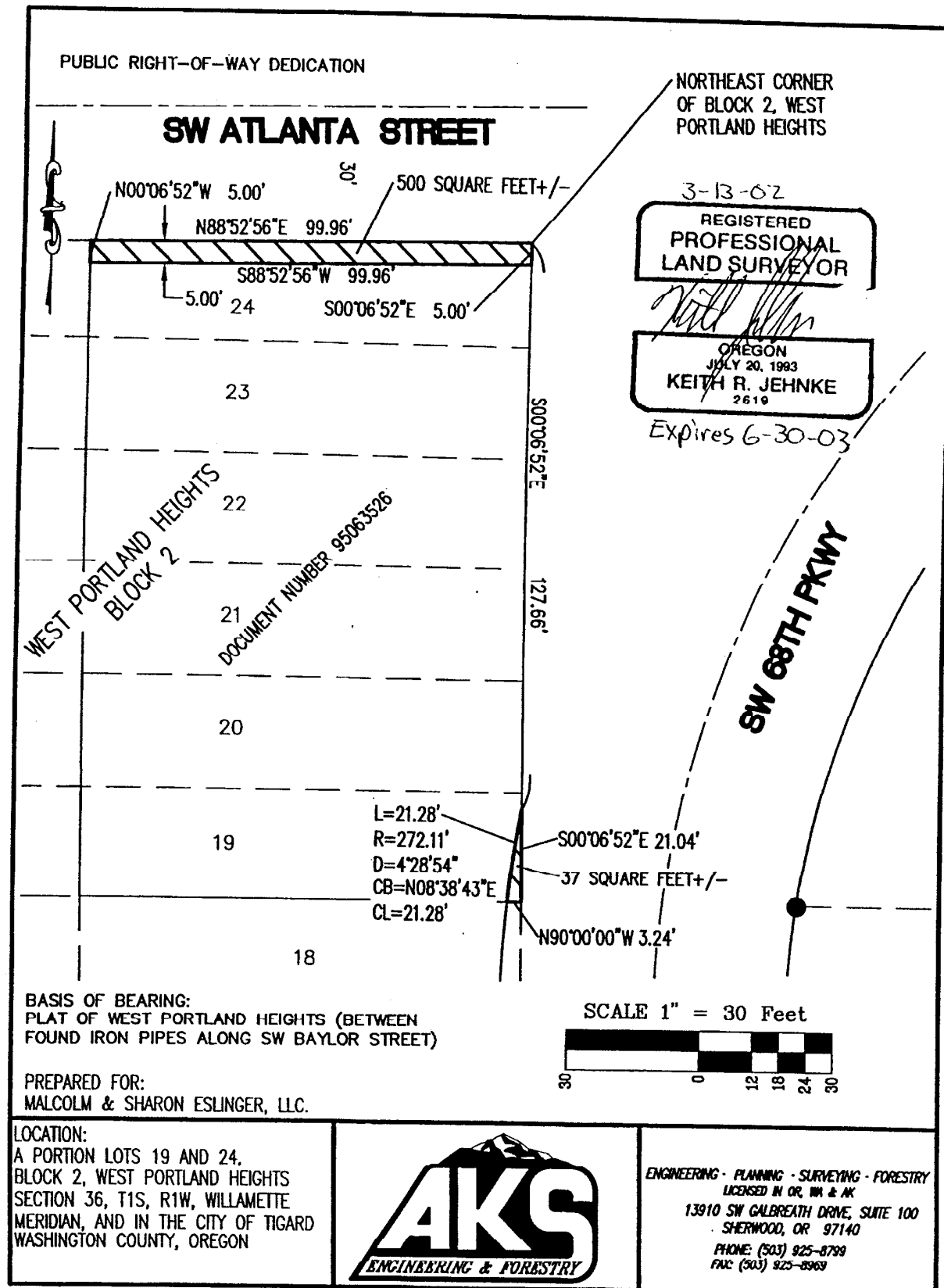


Exhibit "G"



CITY OF TIGARD, OREGON

RESOLUTION NO. 02- 20

A RESOLUTION INITIATING VACATION PROCEEDINGS TO VACATE AN APPROXIMATELY 1,915 SQUARE FOOT PORTION OF PUBLIC RIGHT-OF-WAY ON SW 68TH PARKWAY AT THE INTERSECTION OF SW ATLANTA STREET (VAC2002-00001).

WHEREAS, the approximately 1,915 square foot portion of the road had previously been dedicated to the public; and

WHEREAS, the applicant has requested that the City of Tigard initiate Vacation proceedings to vacate an approximately 1,915 square foot portion of public right-of-way, as described in Exhibit "A" and shown in Exhibit "B" and "C" better known as SW 68th Parkway; and

WHEREAS, the said portion of public right-of-way may no longer be necessary; and

WHEREAS, a public storm water easement will be granted to the City of Tigard concurrently with the right-of-way vacation for the public storm line, which lies within the northeast corner of the public right-of-way to be vacated as described in Exhibit "D" and shown in Exhibit "E"; and

WHEREAS, a 37.5 square foot portion of the adjoining property to the west will be dedicated to the City of Tigard in order to be constant with the required 35 feet of right-of-way needed from the centerline of SW 68th Parkway for the Tigard Triangle; as described in Exhibit "F" and shown in Exhibit "G"; and

WHEREAS, the Tigard City Council finds it appropriate to initiate Vacation proceedings for the requested public right-of-way vacation.

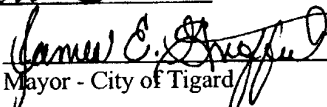
NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The Tigard City Council hereby initiates a request for the vacation of an approximately 1,915 square foot portion of public right-of-way commonly know as SW 68th Parkway, as more particularly described in Exhibit "A" and Exhibit "B" and by reference, made a part hereof.

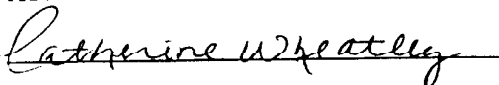
SECTION 2: A public hearing is hereby called to be held by the City Council on May 28, 2002, at 7:30 PM in the Town Hall at Tigard City Hall, 13125 SW Hall Boulevard, within the City of Tigard, at which time and place the Council will hear any objections thereto and any interested person may appear and be heard for or against the proposed vacation of said public right-of-way.

EFFECTIVE DATE: March 26, 2002

PASSED: This 26th day of March 2002.


Mayor - City of Tigard

ATTEST:



City Recorder - City of Tigard

Exhibit "A"

ENGINEERING PLANNING

13910 S.W. Galbreath Dr., Suite 100
Sherwood, OR 97140



SURVEYING

FORESTRY

TELEPHONE (503) 925-8799
FAX (503) 925-8969
E-MAIL: aks@aks-eng.com

EXHIBIT "A"

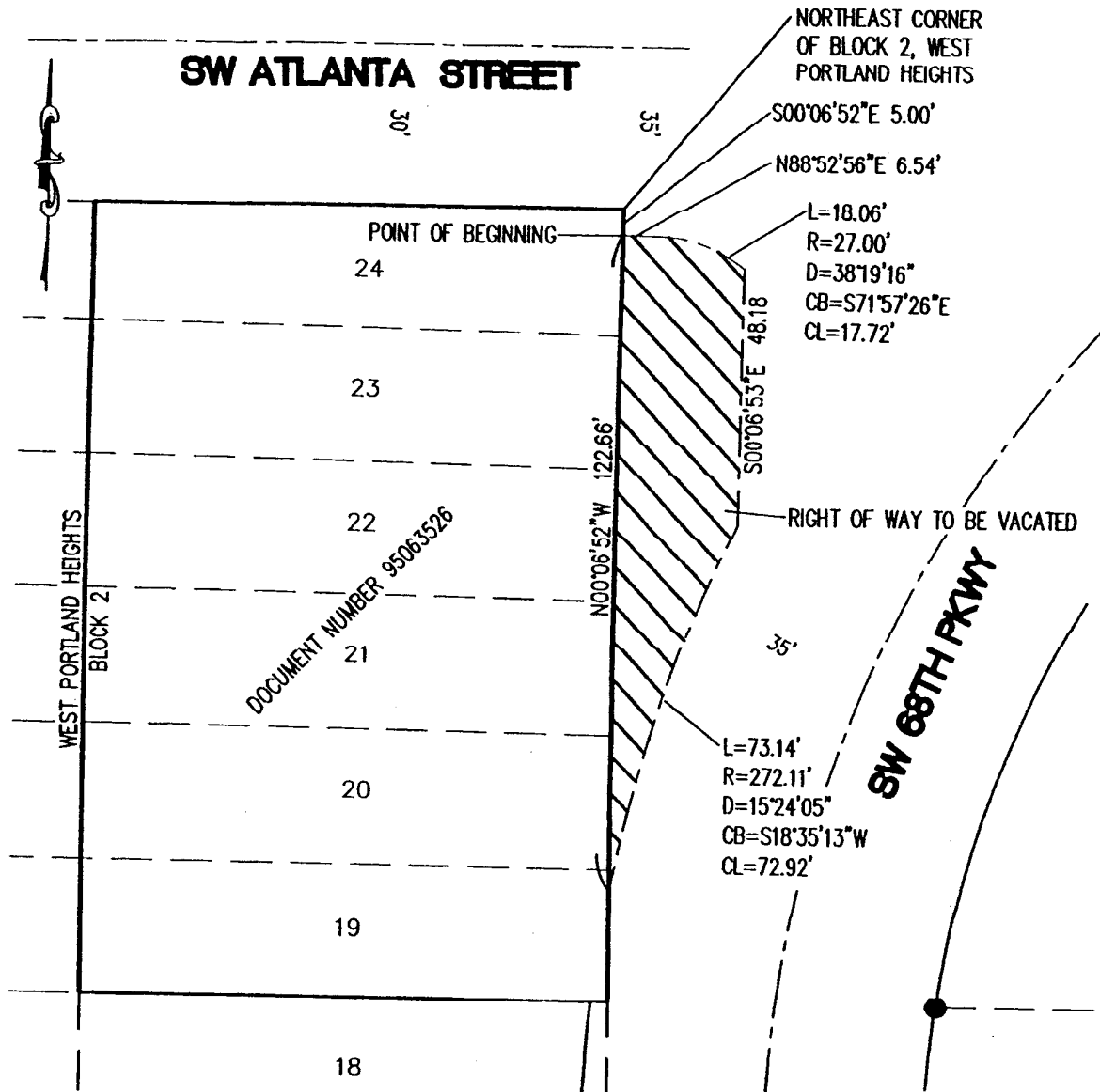
PUBLIC RIGHT-OF-WAY VACATION

A portion of the SW 68th Avenue public right-of-way located in the Southeast One-Quarter of Section 36, Township 1 South, Range 1 West, Willamette Meridian and in the City of Tigard, Washington County, Oregon, being more particularly described as follows:

Beginning at a point which is S00°06'52"E 5.00 feet, along the east line of Block 2, WEST PORTLAND HEIGHTS, from the Northeast corner of said Block; thence, N88°52'56"E 6.54 feet to a point; thence, along a non-tangent curve to the right with a radius of 27.00 feet, length of 18.06 feet, delta of 38°19'16", and long chord of S71°57'26"E 17.72 feet to a point; thence, S00°06'53"E 48.18 feet to a point; thence, along a tangent curve to the left, which lies parallel to and 35 feet from the centerline of SW 68th Avenue, and has a radius of 272.11 feet, length of 73.14 feet, delta of 15°24'05", and long chord of S18°35'13"W 72.92 feet to a point; thence, N00°06'52"W 122.26 feet along the east line of Block 2, WEST PORTLAND HEIGHTS, to the point of beginning.

The above described tract contains 1,915 square feet more or less. The basis of bearing is from found iron pipes along SW Baylor Street per the Plat of West Portland Heights.

Exhibit "B"



BASIS OF BEARING:
 PLAT OF WEST PORTLAND HEIGHTS (BETWEEN
 FOUND IRON PIPES ALONG SW BAYLOR STREET)

CITY OF TIGARD PLANNING DIVISION

CITY OF TIGARD

SITE PLAN

(Map is not to scale)



VAC2002-00001

68TH PARKWAY @ ATLANTA STREET

PUBLIC RIGHT-OF-WAY VACATION

Exhibit "C"



Community Development

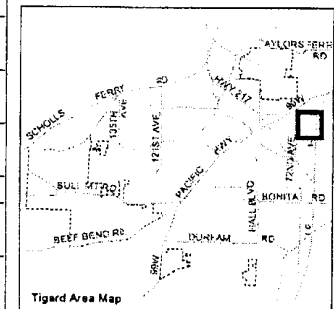
CITY of TIGARD

GEOGRAPHIC INFORMATION SYSTEM

VICINITY MAP

VAC2002-00001

68TH PARKWAY @
ATLANTA STREET
PUBLIC RIGHT-OF-WAY
VACATION



0 100 200 300 400 Feet

1" = 317 feet



City of Tigard

Information on this map is for general location only and
should be verified with the Development Services Division.

13125 SW Hall Blvd

Tigard, OR 97223

(503) 639-4171

<http://www.ci.tigard.or.us>

Pict date: Feb 27, 2002; C:\magic\MAGIC03.APR

Exhibit "D"

ENGINEERING PLANNING

13910 S.W. Galbreath Dr., Suite 100
Sherwood, OR 97140



SURVEYING

FORESTRY

TELEPHONE (503) 925-8799

FAX (503) 925-8969

E-MAIL: aks@aks-eng.com

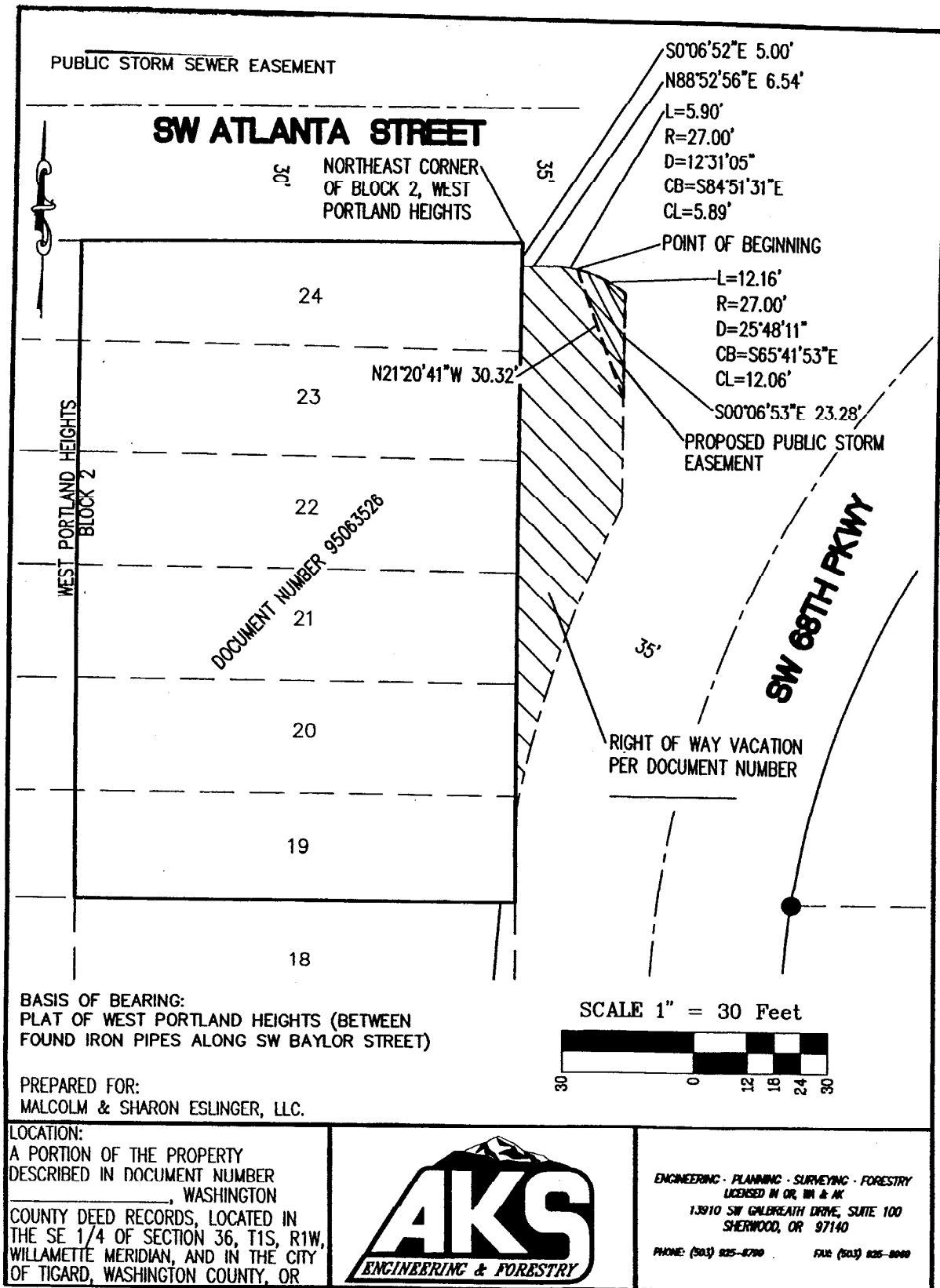
PUBLIC STORM SEWER EASEMENT

A portion of the property described in Document Number _____, Washington County Deed Records, located in the Southeast One-Quarter of Section 36, Township 1 South, Range 1 West, Willamette Meridian and in the City of Tigard, Washington County, Oregon, being more particularly described as follows:

Beginning at the Northeast corner of Block 2, WEST PORTLAND HEIGHTS, thence, S00°06'52"E 5.00 feet, along the western right-of-way line of SW 68th Avenue, to a point; thence, N88°52'56"E 6.54 feet to a point; thence, along a tangent curve to the right with a radius of 27.00 feet, length of 5.90 feet, delta of 12°31'05", and long chord of S84°51'31"E 5.89 feet to the TRUE POINT OF BEGINNING; thence, continuing along said curve to the right with a radius of 27.00 feet, length of 12.16 feet, delta of 25°48'11", and long chord of S65°41'53"E 12.06 feet to a point; thence, S00°06'53"E 23.28' to a point; thence, N21°20'41"W 30.32 feet to the point of beginning.

The above described tract contains 133 square feet more or less. The basis of bearing is from found iron pipes along SW Baylor Street per the Plat of West Portland Heights.

Exhibit "E"



ENGINEERING PLANNING

13910 S.W. Galbreath Dr., Suite 100
Sherwood, OR 97140

**SURVEYING****FORESTRY**

TELEPHONE (503) 925-8799

FAX (503) 925-8969

E-MAIL: aks@aks-eng.com

PUBLIC RIGHT-OF-WAY DEDICATION

A portion of lot 24, Block 2, West Portland Heights located in the Southeast One-Quarter of Section 36, Township 1 South, Range 1 West, Willamette Meridian and in the City of Tigard, Washington County, Oregon, being more particularly described as follows (see Exhibit "B"):

Beginning at the Northeast corner of Block 2, WEST PORTLAND HEIGHTS; thence, S00°06'52"E a distance of 5.00 feet to a point; thence, S88°52'56"W a distance of 99.96 feet to a point; thence, N00°06'52"W a distance of 5.00 feet to a point; thence, N88°52'56"E a distance of 99.96 feet to the point of beginning.

The above tract contains 500 square feet more or less. The basis of bearings is from found iron pipes along SW Baylor Street per the plat of West Portland Heights.

ALSO: A portion of lot 19, Block 2, West Portland Heights located in the Southeast One-Quarter of Section 36, Township 1 South, Range 1 West, Willamette Meridian and in the City of Tigard, Washington County, Oregon, being more particularly described as follows (see Exhibit "B"):

Beginning at a point which is S00°06'52"E a distance of 127.66 feet from the Northeast corner of Block 2, WEST PORTLAND HEIGHTS; thence S00°06'52"E 21.04 feet to a point; thence N90°00'00"W a distance of 3.24 feet to a point; thence, along a non-tangent curve to the right, which lies parallel to and 35 feet in a westerly direction from the centerline of SW 68th Avenue, and has a radius of 272.11 feet, length of 21.28 feet, delta of 4°28'54", and a long chord of N08°38'43"E 21.28 feet, to the point of beginning.

The above described tract contains 37 square feet more or less. The basis of bearings is from found iron pipes along SW Baylor Street per the plat of West Portland Heights.

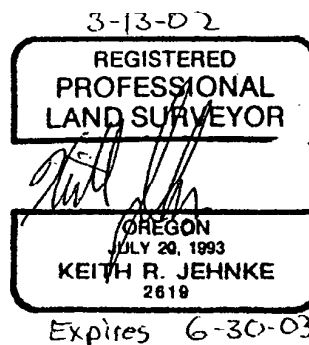
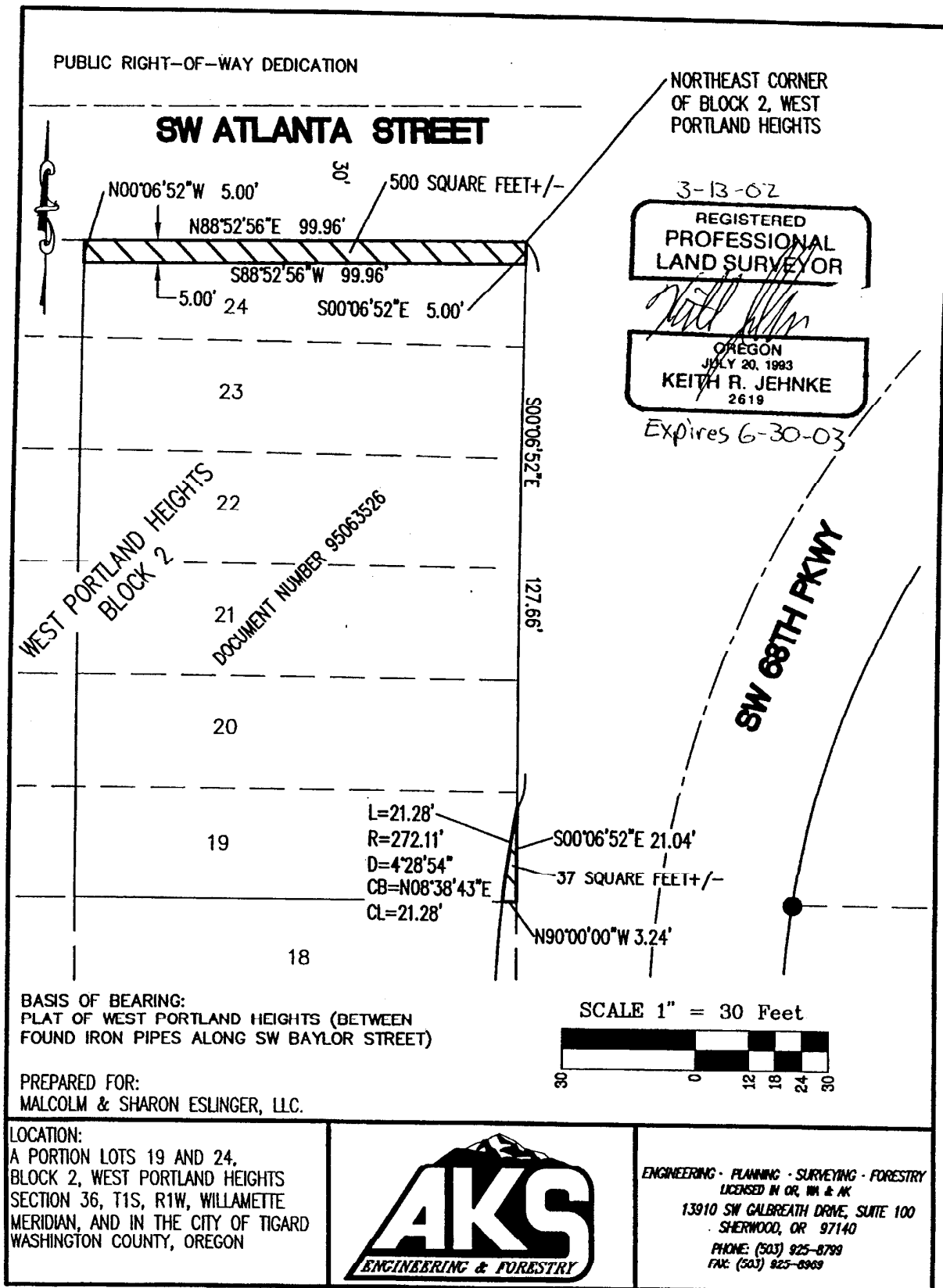


Exhibit "G"



CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE: Dartmouth Street @ 69th Avenue Public Right-of-Way Vacation (VAC2001-00003)

PREPARED BY: Mathew Scheidegger DEPT HEAD OK _____ CITY MGR OK _____

ISSUE BEFORE THE COUNCIL

Should the City Council vacate an approximately 1,181.6 square foot portion of public right-of-way commonly known as SW Dartmouth Street?

STAFF RECOMMENDATION

It is recommended that Council approve the vacation as requested by adopting the attached Ordinance (Attachment 1).

INFORMATION SUMMARY

The City Council initiated this Vacation on April 9, 2002 (Attachment 2, Resolution No. 02-25) to consider the above vacation request. The next step in the process is for the City Council to hold a public hearing.

The applicant is requesting that the City of Tigard vacate a 1,181.6 square foot portion of public right-of-way on SW Dartmouth Street, 188 feet west of SW 69th Avenue. The portion of right-of-way requested to be vacated is part of the landscape strip between the existing sidewalk on SW Dartmouth and the property line of the Tigard Corporate Center.

The purpose of the request is to install a permanent monument sign in a portion of the vacated right-of-way. The right-of-way width is currently 90 feet wide along the length of the Tigard Corporate Center property, 55 feet from centerline on the south side of SW Dartmouth and 35 feet from centerline on the north side of SW Dartmouth.

The recently adopted Tigard Transportation System Plan calls for Dartmouth to be approximately 49 feet wide from centerline. The requested vacation will reduce the width of SW Dartmouth to 84 feet, the south side of Dartmouth's right-of-way width will be 49 feet, which is more than enough to satisfy both the Tigard Triangle Design Standards and the Transportation System Plan. The properties on the north side of SW Dartmouth will be required to provide their half of the 90 feet of right-of-way at time of development. This will provide a street right-of way that is not offset on one side.

OTHER ALTERNATIVES CONSIDERED

Take no action at this time.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Not applicable.

ATTACHMENT LIST

Attachment 1 – Proposed Ordinance.

Attachment 2 – Resolution No. 02-25 Initiating the Vacation.

FISCAL NOTES

There are no direct fiscal impacts as a result of this request, as all fees have been paid by the applicant.

ORDINANCE NO. 02- _____

AN ORDINANCE CONCERNING THE VACATION OF APPROXIMATELY 1,181.6 SQUARE FEET OF PUBLIC RIGHT-OF-WAY ON SW DARTMOUTH STREET, IN THE CITY OF TIGARD, WASHINGTON COUNTY, OREGON (VAC2001-00003).

WHEREAS, the approximate 1,181.6 square foot portion of the public right-of-way had previously been dedicated to the public; and

WHEREAS, the applicant has requested that the City of Tigard vacate an approximate 1,181.6 square foot portion of public right-of-way as described in Exhibit "A" and shown in Exhibits "B" and "C" better known as SW Dartmouth Street; and

WHEREAS, the applicant proposes to install a permanent monument sign for the Tigard Corporate Center in the public right-of-way proposed to be vacated; and

WHEREAS, the vacation of said portion of public right-of-way will not interfere with eventual widening of SW Dartmouth; and

WHEREAS, the Tigard City Council finds it appropriate to vacate the requested public right-of-way vacation.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: The Tigard City Council hereby orders the vacation of said 1,181.6 square foot portion of public right-of-way as shown and described on the attached Exhibits "A" and "B" (legal description and map of the area to be vacated), and by this reference, made part thereof.

SECTION 2: This ordinance shall be effective 30 days after its passage by the Council, approval by the Mayor, and posting by the City Recorder.

PASSED: By _____ vote of all Council members present after being read by number and title only, this _____ day of _____, 2002.

Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this _____ day of _____, 2002.

Jim Griffith, Mayor

Approved as to form:

City Attorney

Date

Exhibit "A"

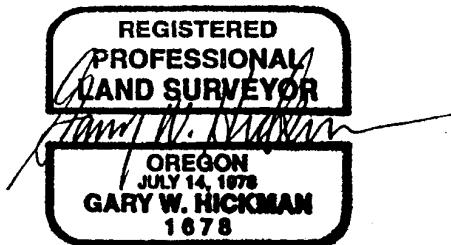
S.W. DARTMOUTH STREET RIGHT-OF-WAY VACATION

A tract of land containing 1181.6 Square Feet, more or less, adjoining the north line of Block 20 of West Portland Heights in the Northeast one-quarter of Section 1, Township Two South, Range One West, Willamette Meridian, City of Tigard, Washington County, Oregon, being more particularly described as follows:

Beginning at the northeast corner of said Block 20 of West Portland Heights; thence following the north line of said Block 20, South $89^{\circ}56'00''$ West 3.26 feet to the northwest corner of the Street Dedication as described in Document No. 99-094173 (Exhibit G-1 & G-2) of Washington County Deed Records, being the "TRUE POINT OF BEGINNING"; thence following along said north line of Block 20, South $89^{\circ}56'00''$ West 203.19 feet to the northeast corner of the Right-of-way dedication as described in Document No. 99-094173 (Exhibit H-1 & H-2); thence following along the arc of a 25.00 foot radius curve to the right a distance of 11.35 feet (chord bears North $57^{\circ}42'33''$ East 11.25 feet); thence following a line 6.00 feet north of and parallel with the north line of said Block 20, North $89^{\circ}56'00''$ East 188.28 feet; thence following the arc of a 18.72 foot radius curve to the right 8.13 feet (chord bears South $42^{\circ}01'16''$ East 8.07 feet) to the "TRUE POINT OF BEGINNING".

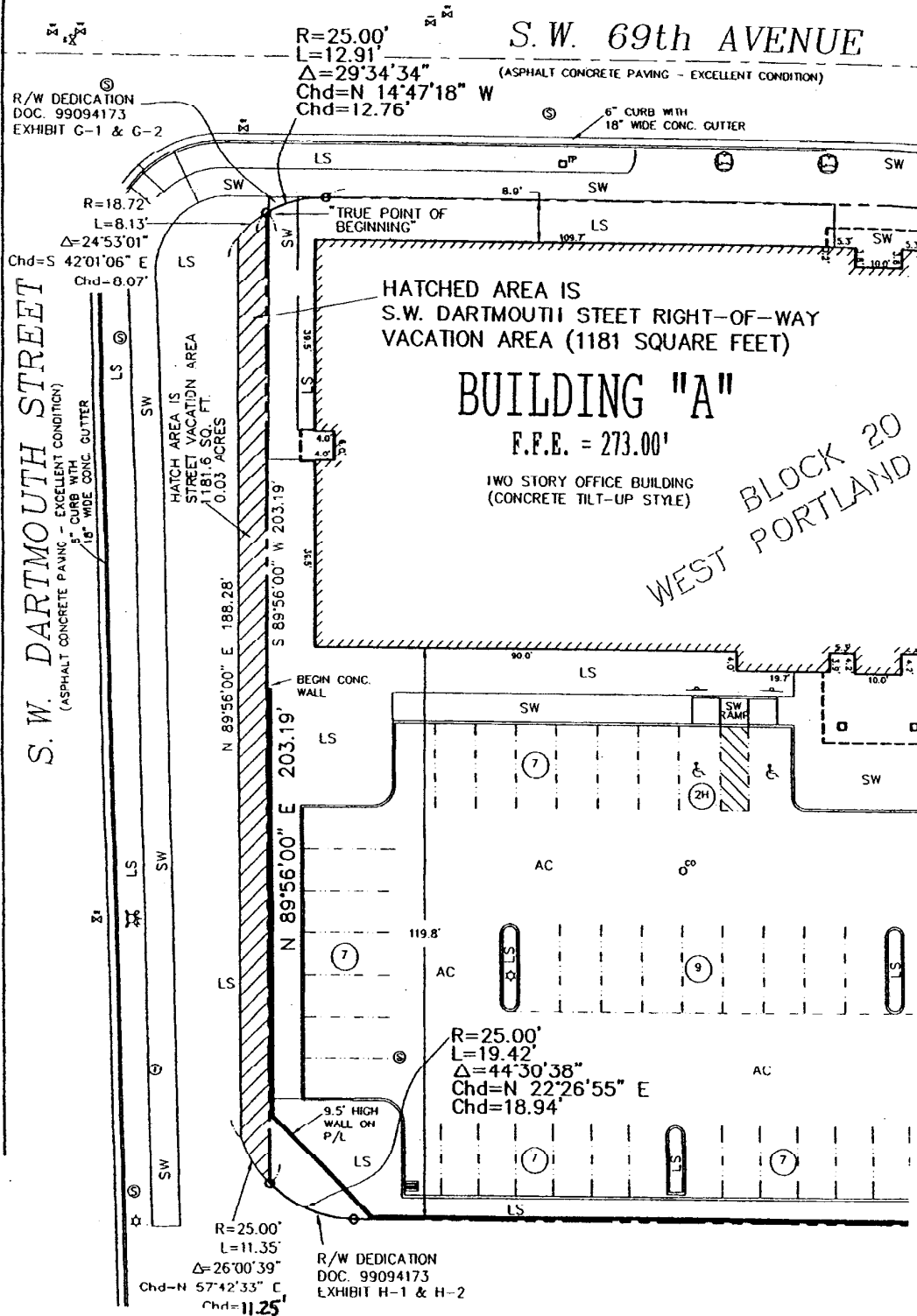
Doc.#:10805

Date: 2/19/2002 2:30 PM



RENEWAL DATE 06/30/03
DATE OF SIGNATURE 02/19/02

Exhibit "B"



VAC2001-00003

DARTMOUTH STREET @ 69TH AVENUE
PUBLIC RIGHT-OF-WAY VACATION

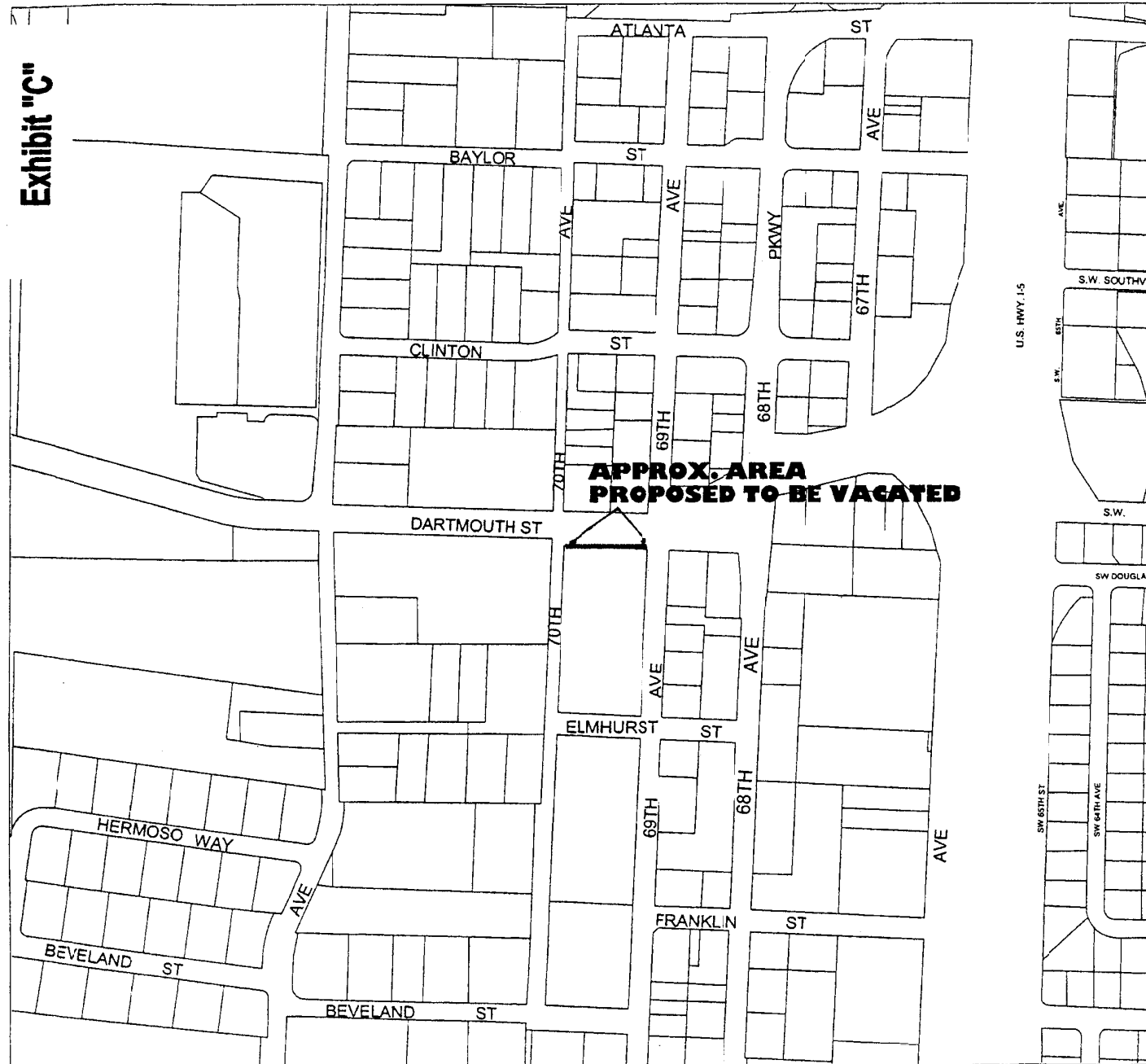
CITY OF TIGARD

SITE PLAN



(Map is not to scale)

Exhibit "C"



CITY of TIGARD

GEOGRAPHIC INFORMATION SYSTEM

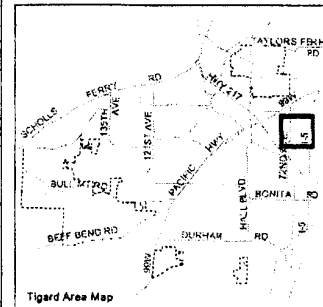
VICINITY MAP

=====

VAC2001-00003

=====

DARTMOUTH STREET
@ 69TH AVENUE
PUBLIC RIGHT-OF-WAY
VACATION



0 100 200 300 400 500 Feet

1" = 370 feet



Information on this map is for general location only and
should be verified with the Development Services Division.
13125 SW Hall Blvd
Tigard, OR 97223
(503) 639-4171
<http://www.ci.tigard.or.us>

CITY OF TIGARD, OREGON

RESOLUTION NO. 02- 25

A RESOLUTION INITIATING VACATION PROCEEDINGS TO VACATE AN APPROXIMATE 1,181.6 SQUARE FOOT PORTION OF PUBLIC RIGHT-OF-WAY ON SW DARTMOUTH STREET, APPROXIMATELY 188 FEET WEST OF SW 69TH AVENUE (VAC2001-00003).

WHEREAS, the approximate 1,181.6 square foot portion of the right-of-way had previously been dedicated to the public; and

WHEREAS, the applicant has requested that the City of Tigard initiate Vacation proceedings to vacate an approximate 1,181.6 square foot portion of public right-of-way as described in Exhibit "A" and shown in Exhibit "B" and "C" better known as SW Dartmouth Street; and

WHEREAS, the applicant proposes to install a permanent monument sign for the Tigard Corporate Center in the right-of-way proposed to be vacated; and

WHEREAS, the vacation of said portion of public right-of-way will not interfere with eventual widening of SW Dartmouth; and

WHEREAS, the Tigard City Council finds it appropriate to initiate Vacation proceedings for the requested public right-of-way vacation.

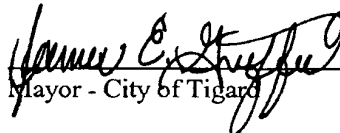
NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The Tigard City Council hereby initiates a request for the vacation of an approximate 1,181.6 square foot portion of public right-of-way as more particularly described in Exhibit "A" and Exhibit "B" and by reference, made a part hereof.

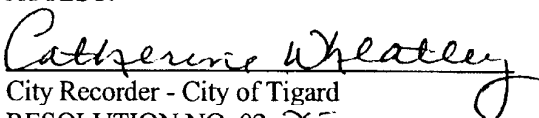
SECTION 2: A public hearing is hereby called to be held by the City Council on May 28, 2002, at 7:30 PM in the Town Hall at Tigard City Hall, 13125 SW Hall Boulevard, within the City of Tigard, at which time and place the Council will hear any objections thereto and any interested person may appear and be heard for or against the proposed vacating of said public right-of-way.

EFFECTIVE DATE: April 9, 2002

PASSED: This 9th day of April 2002.


Mayor - City of Tigard

ATTEST:


City Recorder - City of Tigard

RESOLUTION NO. 02-25

Exhibit "A"

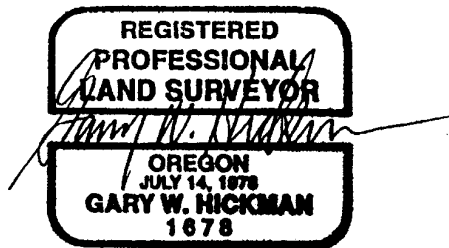
S.W. DARTMOUTH STREET RIGHT-OF-WAY VACATION

A tract of land containing 1181.6 Square Feet, more or less, adjoining the north line of Block 20 of West Portland Heights in the Northeast one-quarter of Section 1, Township Two South, Range One West, Willamette Meridian, City of Tigard, Washington County, Oregon, being more particularly described as follows:

Beginning at the northeast corner of said Block 20 of West Portland Heights; thence following the north line of said Block 20, South $89^{\circ}56'00''$ West 3.26 feet to the northwest corner of the Street Dedication as described in Document No. 99-094173 (Exhibit G-1 & G-2) of Washington County Deed Records, being the "TRUE POINT OF BEGINNING"; thence following along said north line of Block 20, South $89^{\circ}56'00''$ West 203.19 feet to the northeast corner of the Right-of-way dedication as described in Document No. 99-094173 (Exhibit H-1 & H-2); thence following along the arc of a 25.00 foot radius curve to the right a distance of 11.35 feet (chord bears North $57^{\circ}42'33''$ East 11.25 feet); thence following a line 6.00 feet north of and parallel with the north line of said Block 20, North $89^{\circ}56'00''$ East 188.28 feet; thence following the arc of a 18.72 foot radius curve to the right 8.13 feet (chord bears South $42^{\circ}01'16''$ East 8.07 feet) to the "TRUE POINT OF BEGINNING".

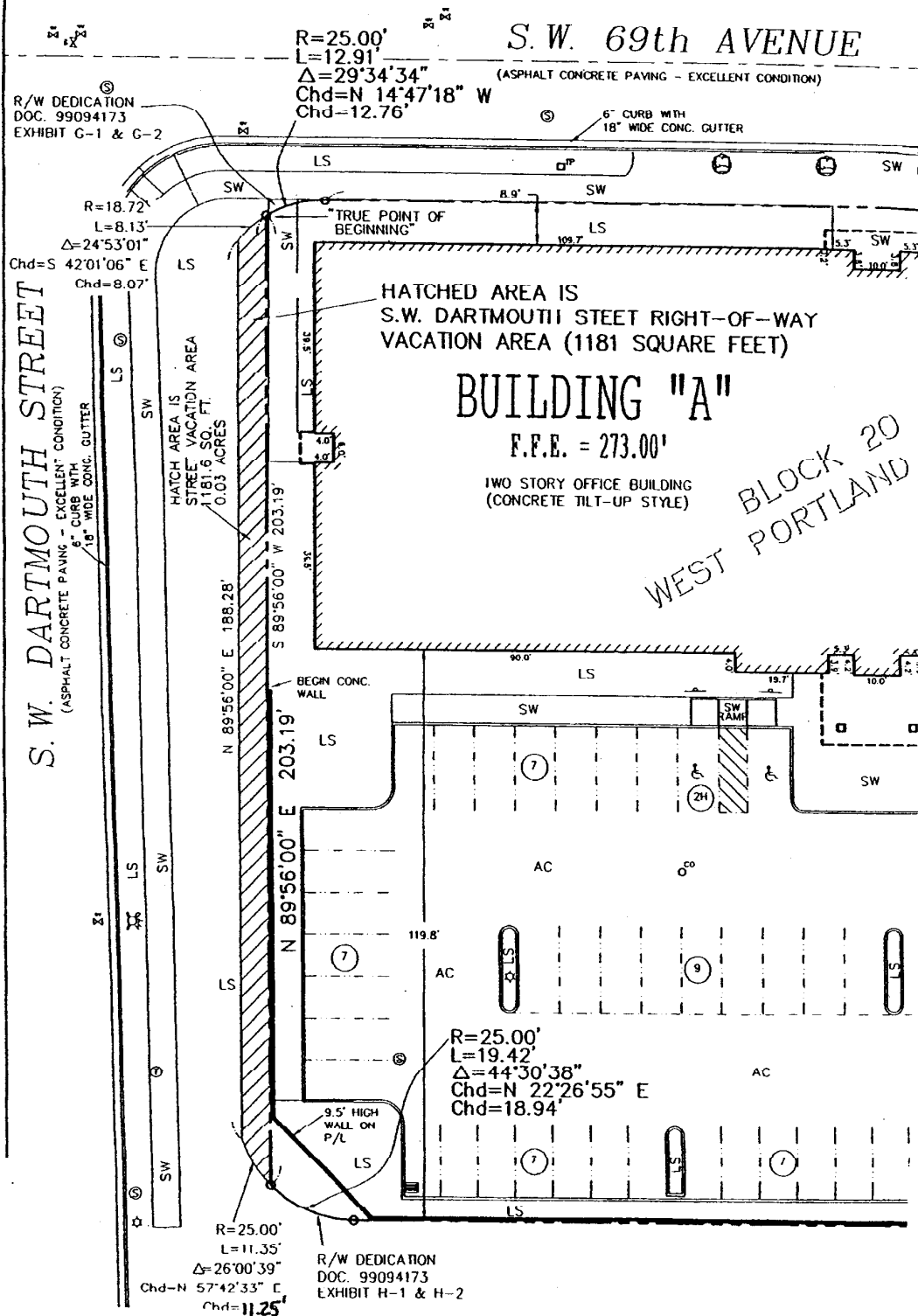
Doc.#:10805

Date: 2/19/2002 2:30 PM



RENEWAL DATE 06/30/03
DATE OF SIGNATURE 02/19/02

Exhibit "B"



VAC2001-00003

DARTMOUTH STREET @ 69TH AVENUE
PUBLIC RIGHT-OF-WAY VACATION

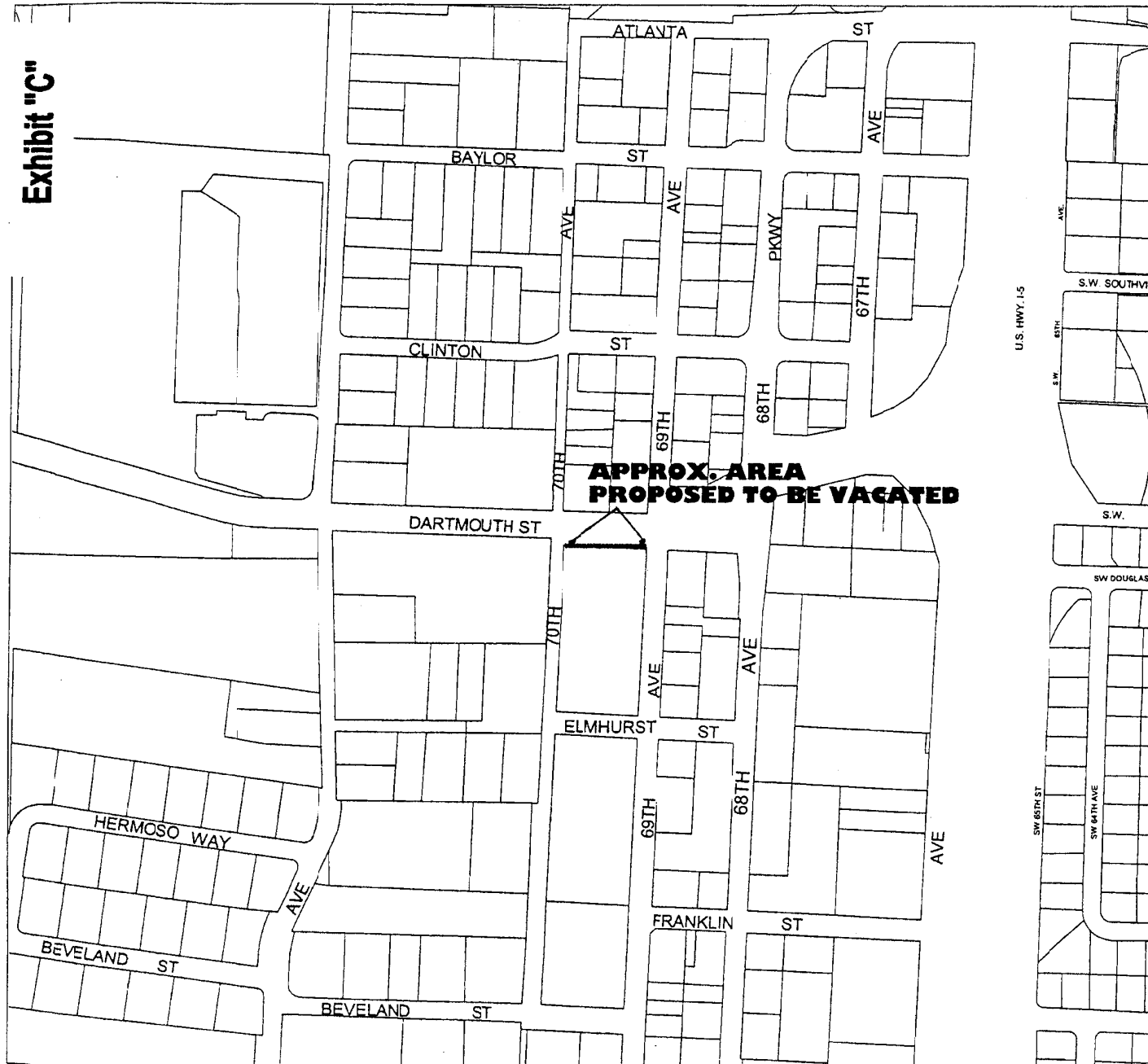
CITY OF TIGARD

SITE PLAN



(Map is not to scale)

Exhibit "C"



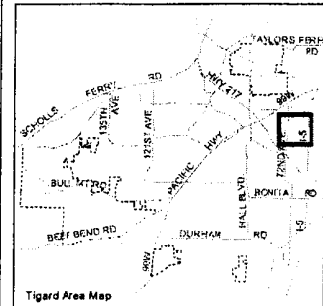
CITY of TIGARD

GEOGRAPHIC INFORMATION SYSTEM

VICINITY MAP

VAC2001-00003

DARTMOUTH STREET
@ 69TH AVENUE
PUBLIC RIGHT-OF-WAY
VACATION



Tigard Area Map



0 100 200 300 400 500 Feet

1"= 370 feet



Information on this map is for general location only and should be verified with the Development Services Division.
13125 SW Hall Blvd
Tigard, OR 97223
(503) 639-4171
<http://www.ci.tigard.or.us>

Plot date: Mar 8, 2002; C:\magic\MAGIC03.APR

AGENDA ITEM # _____
FOR AGENDA OF May 28, 2002

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE An Ordinance amending Ordinance 96.09 Exhibit "A" (Purchasing Rules) to allow Design/Build or Construction Manager/General Contractor (CM/GC) contracts.

PREPARED BY: Terry Muralt, Buyer DEPT HEAD OK _____ CITY MGR OK _____

ISSUE BEFORE THE COUNCIL

Shall Council approve the amendments of Administrative Rules (AR) 10.010 (1) and 10.010 (1)(c) and the addition of Section 35.000 Competitive Request for Proposal that would allow a competitive Request for Proposal for a Design/Build or Construction Manager/General Contractor (CM/GC) contract.

STAFF RECOMMENDATION

Approve the amendment of AR 10.010 and the addition of Section 35.000.

INFORMATION SUMMARY

Current City purchasing rules allow only competitive bidding in the letting of Public Improvement (construction) contracts that are awarded solely on price. An RFP process is allowed when the selection process needs to consider other factors besides price (i.e., qualifications, experience, knowledge and expertise), but the RFP process is only allowed as an exception to the purchasing rules.

In addition to the limitations on the use of an RFP process, current purchasing rules do not allow use of Design/Build or Construction Manager/General Contractor contracts. A Design/Build contract would allow the awarded construction Contractor to provide or obtain specified design services, participate on the project team with the City and manage both design and construction of the project. The Construction Manager/General Contractor is a form of contracting that results in a Construction Manager being allowed to undertake design phase involvement; constructability reviews; value engineering, scheduling, estimating and subcontracting services; establish a Guaranteed Maximum Price to complete the contract work; act as General Contractor; coordinate and manage the building process; provide expertise and be a member of the project team along with the City, and other consultants. Many cities are successfully using these types of contracts to build projects under tight time frames at lower cost, and with greater control over the final design of the project.

The addition of Section 35.000 to the City's Administration Rules would allow, but not require, an RFP process for Design/Build or Construction Manager/General Contractor Contracts to be used for Public Improvement Contracts.

Rules for the above mentioned processes and contracts have been established in the States, ORS 279.015(6)(a) and 137.040-0500.

OTHER ALTERNATIVES CONSIDERED

1. Leave the AR 10.010 as is and do not add Section 35.000

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

N/A

ATTACHMENT LIST

Ordinance with Exhibit “A” attached that shows the changes in AR 10.010 and the wording for the new Section 35.000.

FISCAL NOTES

No fiscal impact

CITY OF TIGARD, OREGON

ORDINANCE NO. 02-____

AN ORDINANCE AMENDING ORDINANCE 96.09 EXHIBIT "A" (PURCHASING RULES) TO ALLOW DESIGN/BUILD OR CONSTRUCTION MANAGER/GENERAL CONTRACTOR (CM/GC) CONTRACTS.

WHEREAS, The City Council approved Ordinance 96.09 on February 27, 1996, which established purchasing rules of the Local Contract Review Board, and

WHEREAS, The Amending of Administrative Rules 10.010 changes the Request for Proposal process from an exception of the competitive bidding process too one of two competitive bidding processes.

WHEREAS, The addition of Section 35.000 sets forth the guidelines to allow, but not require, use of a process for Design/Build or Construction Manager/General Contractor (CM/GC) contracts for Public Improvement contracts.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: The Tigard City Council, acting as the Local Contract Review Board, does hereby amend Ordinance 96-09 as shown in the attached Exhibit "A".

SECTION 2: This ordinance shall be effective 30 days after its passage by the Council, signature by the Mayor, and posting by the City Recorder.

PASSED: By _____ vote of all Council members present after being read by number and title only, this ____ day of _____, 2002.

Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this ____ day of _____, 2002.

James E. Griffith, Mayor

Approved as to form:

City Attorney

Date

EXHIBIT "A"

TIGARD LOCAL CONTRACT REVIEW BOARD ADMINISTRATIVE RULES

AR 10.000 CONTRACTS EXEMPT FROM COMPETITIVE BIDDING AND REQUIREMENTS CONTRACTS.

10.010 1. **Exemptions And Definitions.**

All public contracts shall be based upon competitive bids or proposals except the following:

- a. Contracts made with other public agencies, including the State System of Higher Education, or the federal government.
- b. Contracts, which are exclusively for personal services as defined in Section 70.000. Such contracts may include incidental materials such as written reports, architectural or engineering renderings and similar supplemental materials.
- c. Contracts specifically exempt under these rules:
 - 10.015 Exemption Of Contracts Under Certain Dollar Amounts
 - 10.020 Contracts For Price Regulated Items
 - 10.025 Copyrighted Materials
 - 10.030 Library Aggregate Purchases-Library Periodicals
 - 10.035 Advertising Contracts
 - 10.040 Equipment Maintenance Repair And Overhaul
 - 10.045 Purchase of Used Personal Property
 - 10.050 Purchases Under Established Requirements Contracts
 - 10.055 Gasoline, Diesel Fuel, Heating Oil, Lubricants and Asphalt
 - 10.060 Requirements Contracts
 - 10.065 Investment Contracts
 - 10.070 Insurance Contracts
 - 10.075 Employee Benefit Insurance
 - 10.080 Data and Word Processing Contracts
 - 10.081 Telecommunications Systems Contracts
 - 10.082 Telecommunications Services
 - 10.083 Office Copier Purchases
 - 10.085 Single Seller of Product Required
 - 10.090 Contract Amendments (Including Change Orders and Extra Work)
 - 10.100 Affirmative Action Contracts
 - 10.105 Responsibility of Public Agencies
 - 10.115 Purchase Off Contract By Other Public Agencies
 - 10.120 Oil or Hazardous Material Removal

AR 35.000 COMPETITIVE REQUEST FOR PROPOSAL

35.010 Requests for Proposal – When Authorized

The City may use a competitive request for proposal process for contracts for which price is not the sole consideration in awarding the contract. Public improvement contracts shall be awarded by competitive bidding and not by competitive proposals unless the contract qualifies as a Design/Build contract or a Construction Manager/General Contractor (CM/GC) contract. At the time of awarding a Design/Build or CM/GC contract, the Local Contract Review Board shall make the findings required by ORS 279.015 (2) at a public hearing for which notice has been provided as required by ORS 279.015(3). The proposed findings shall be available when notice of the public hearing is published.

35.020 RFP Requirements

The competitive request for proposal process shall comply with the following requirements:

1. Contractual requirements shall be stated clearly in the solicitation document.
2. Evaluation criteria to be applied in awarding the contract and the role of an evaluation committee shall be stated clearly in the solicitation document.
3. Criteria used to identify the proposal that best meets the public contracting needs may include by are not limited to cost, quality, service, compatibility, product reliability, operating efficiency and expansion potential.
4. The solicitation documents shall clearly state all complaint processes and remedies available.
5. The solicitation documents shall state the provisions made for vendors to comment on any specifications that they believe limit competition.
6. The selection process shall not inhibit competition or encourage favoritism and will result in cost savings to the City. The above shall be documented as findings in the contract administration record.
7. The procurement shall be advertised and a written solicitation document issued that invites the submission of sealed, written offers to be opened publicly at a designated time and place.

35.030 Competitive Negotiation

In a competitive proposal process, the City may utilize competitive negotiation, in which amendments and clarifications to proposals may be made as part of the interview and evaluation process in response to questions or request from the City. Contract terms may be negotiated to the extent allowed by the solicitation document, state law and City rules, provided that the general work scope remains the same and the field of competition does not change as a result of material changes to the requirements stated in the solicitation document. Terms that may be negotiated are

details of contract performance, methods of construction, timing, assignment of risk in specified areas, fee, and other matters, which effect cost or quality.

35.040 **Evaluation Criteria**

The evaluation criteria in a competitive proposal process may include, in addition to price: firm and personnel qualifications and experience on similar projects, adequacy of equipment and physical plant, quality of products or services, sources of supply, availability of key personnel, financial capacity including management performance history on other public and private contracts, safety records, project understanding, proposed methods of construction, proposed milestone dates, references, service and related matters which affect cost or quality or other evaluation criteria specifically provided in the solicitation document.

35.050 **Design/Build**

The City may award contracts for public improvements by the competitive proposal process if the scope of work of the contractor includes substantial design responsibilities.

1. The Design/Build process the City should only be used when the City anticipates three or more of the following benefits:
 - a. Obtaining, through a Design/Build team, engineering design, plan preparation, value engineering, construction engineering, construction, quality control, and required documentation as fully integrated functions;
 - b. Integrating value engineering suggestions into the design phase, as the construction contractor joins the project team early with design responsibilities under a team approach, with the potential of reducing contract changes;
 - c. Reducing the risk of design flaws, misunderstandings and conflicts inherent in construction contractors building from designs in which they have had no opportunity for input, with the potential of reducing contract claims;
 - d. Shortening project time as construction activity (early submittals, mobilization, subcontracting and advance work) commences prior to completion of a biddable design, or where a design solution is still required (as in complex or phased projects); or
 - e. Obtaining innovative design solutions through the collaboration of the contractor and design team, which would not otherwise be possible.
2. In addition to the evaluation criteria provided by AR 35.040, evaluation factors for a Design/Build contract may also include design professional qualifications, specialized experience, preliminary design submittals, technical merit, design/build team experience, possession of necessary licenses, and related matters which affect cost or quality or other evaluation criteria specifically provided in the solicitation document. If a proposer does not have the necessary professional licenses, the proposal may be considered provided that the proposer or the persons who will be doing the professional work obtain the necessary licenses by the time of contract award.

3. The Design/Build contracting process shall conform to the following:
- a. Design Services. The level or type of design services required shall be clearly defined within the solicitation and contract documents, along with a description of the level or type of design services previously performed for the project. The services to be performed shall be clearly delineated as either design specifications or performance standards, and performance measurements must be identified.
 - b. Professional Liability. The contract documents shall clearly identify the liability of design professionals with respect to the Design/Build contractor and/or owner, as well as requirements for professional liability insurance.
 - c. Risk Allocation. The contract documents shall clearly identify the extent to which the City requires an express indemnification from the Design/Build contractor for any failure to perform, including professional errors and omissions, design warranties, construction operations and faulty work claims.
 - d. Warranties. The contract documents shall clearly identify any express warranties to be made to the City on characteristics or capabilities of the completed project (regardless of whether errors occur as the result of improper design, construction or both), including any warranty that a design will be produced which meets the stated project performance and budget guidelines.
 - e. Privity of Contract. The contract documents shall clearly identify any third party beneficiary arrangements by which privity of contract may be established between the City and design professional when the design professional is not otherwise under contract directly with the City.
 - f. Incentives. The contract documents shall clearly identify any economic incentives and/or disincentives, the specific criteria, which apply and their relationship to other financial elements of the contract.
 - g. Honoraria. If provided for in the request for proposals, honoraria or stipends may be provided for early design submittals from qualified finalists.

35.060 Construction Manager/General Contractor

The City may award contracts for public improvements by the competitive proposal process if the General Contractor is to undertake substantial construction management responsibilities in addition to the usual duties of the general contractor. The CM/GC process should only be used if the CM/GC can be involved early in a development process involving a complex project (occupied structures, unusual coordination or technical complexities), projects with accelerated schedules, extremely costly projects, historic renovation, and other projects involving uncertainties that will allow cost savings and quicker construction through the use of a CM/GC.

1. In addition to the evaluation criteria listed in AR 35.040, the evaluation criteria for a CM/GC contract may also include the ability to respond to the technical complexity of unique character of the project, coordination of multiple disciplines, the time required to

commence and complete the improvement, and related matters which affect cost or quality or other evaluation criteria specifically provided in the solicitation document.

2. The CM/GC process adds specified construction manager services to traditional general contractor services, requiring full contract performance within a negotiated guaranteed maximum price (GMP). The basis for payment is reimbursable direct costs as defined under the contract, plus a fee constituting full payment for work and services rendered, which together shall not exceed the GMP.
3. The CM/GC contracting process shall conform to the following:
 - a. Setting the GMP. The GMP shall be set at an identified time consistent with industry practice and shall define with particularity both what is included and excluded from the GMP. A set of drawings and specifications shall be produced establishing the GMP scope.
 - b. Adjustments to the GMP. The contract documents shall clearly identify the standards or factors under which changes or additional work shall be considered outside of the work scope to warrant an increase in the GMP, as well as criteria for decreasing the GMP. The GMP shall not be increased without a concomitant increase to the scope defined at the time the GMP was established.
 - c. Cost Savings. The contract documents shall clearly identify the disposition of any cost savings resulting from completion of the work below the GMP; that is, under what circumstances, if any, the CM/GC might share in those cost savings, or whether they accrue only to the City's benefit. Unless there is a clearly articulated reason for sharing the cost savings, the cost savings shall accrue to the City.
 - d. Cost Reimbursement. The contract documents shall clearly identify what items or categories of items are eligible for cost reimbursement with the GMP, including any category of general conditions (a general grouping of direct costs which are not separately invoiced, subcontracted or included within either overhead or fee), and may also incorporate a mutually agreeable cost reimbursement standard.
 - e. Audit. Cost reimbursements shall be made subject to final audit adjustment, and the contract documents shall establish an audit process to ensure that contract costs are allowable, properly allocated and reasonable.
 - f. Fee. Compensation for the CM/GC's services shall be paid on the basis of a fee, which is inclusive of profit, overhead, and all other indirect or non-reimbursable costs. The fee, first expressed as a proposed percentage of all reimbursable costs, shall be identified during and become an element of the selection process. It shall subsequently be expressed as a fixed amount when reimbursable costs are established within the GMP.
 - g. Incentives. The contract documents shall clearly identify any economic incentives, the specific criteria, which apply, and their relationship to other financial elements of the contract (including the GMP).

- h. **Controlled Insurance Programs.** For projects anticipated to exceed \$75 million, the contract documents shall clearly identify whether a City controlled or contractor controlled insurance program is anticipated or allowable. If so, those documents shall clearly identify:
 - (1) Anticipated cost savings from reduced premiums, claims reductions and other factors,
 - (2) The allocation of cost savings, and
 - (3) Safety responsibilities and/or incentives.
- i. **Early Work.** The RFP shall clearly identify the circumstances under which any of the following activities may be authorized and undertaken for compensation prior to establishing the GMP:
 - (1) Early procurement of materials and supplies;
 - (2) Early release of bid packages for such things as site development; and
 - (3) Other advance work related to critical components of the contract.
- j. **Subcontractor Selection.** The contract documents shall clearly describe the methods by which the CM/GC shall publicly receive, open and record sealed bids or price quotations, and competitively select subcontractors to perform the contract work based upon price, as well as the mechanisms by which the City may waive those requirements. The documents shall also describe completely the methods by which the CM/GC and its affiliated or subsidiary entities may compete to perform the work, including, at a minimum, advance notice to the public of the CM/GC's intent to compete and a public opening of bids or price quotations by an independent party.
- k. **Subcontractor Approvals and Protests.** The contract documents shall clearly establish whether the City is required to approve subcontract awards, and to what extent, if any, the City shall resolve procurement protests of subcontractors and suppliers. The related procedures and reporting mechanisms shall be established with certainty, including whether the CM/GC acts as the City's agent in this process and whether the CM/GC's subcontracting records are considered to be public records. In any event, the City shall retain the right to monitor the subcontracting process in order to protect the City's interests.
- l. **Socio-Economic Programs.** The contract shall clearly identify conditions relating to any required socio-economic programs (such as Affirmative Action or Prison Inmate Labor Programs), including the manner in which such programs affect the CM/GC's subcontracting requirements, the enforcement mechanisms available, and the respective responsibilities of the CM/GC and the City.

35.070 CM/GC and Design/Build Subcontracting

The contract with the contractor on a CM/GC contract or a Design/Build contract shall describe the methods by which the CM/GC or Design/Build firm shall competitively select other contractors and subcontractors to perform work on the public improvement. The contract shall also describe completely the methods by which the CM/GC or the Design/Build firm and its affiliated and subsidiary entities, if any, may compete to perform the work of the public improvement. Such methods shall include at a minimum, public opening of sealed bids at a pre-announced time and place.

35.080 Post-Project Evaluation

Upon completion of and final payment for any public improvement contract in excess of \$100,000 for which the City did not use the competitive bidding process, the City shall prepare and deliver to the LCRB, within 30 days of project acceptance, an evaluation of the public improvement project. The evaluation shall include:

1. Financial information, consisting of cost estimates, any guaranteed maximum price, changes and actual costs;
2. A narrative description of successes and failures during design, engineering and construction; and
3. An objective assessment of the use of the alternative contracting method as to whether the alternative contracting method:
 - a. Encouraged favoritism or substantially diminished competition for public contracts; and
 - b. Resulted in cost savings to the City.

Evaluations required by this section shall be made available for public inspection.

35.090 Pricing Mechanisms

1. A Request for Proposal may result in a firm fixed price (lump sum) contract as in the case of competitive bidding. Alternatively, the award may be based on a cost reimbursement contract (that is, a cost plus fixed fee contract in which additional costs beyond those estimated are reimbursable while the fee does not increase for the original work scope).
2. Economic incentives or disincentives may be included to reflect stated City purposes related to time of completion, safety or other public contracting objectives including total least cost mechanisms such as life cycle costing.
3. A guaranteed maximum price (GMP) shall be in all CM/GC and Design/Build contracts and may be included in other contracts.
 - a. In CM/GC, unless otherwise directed by the City, the pricing mechanism shall be a cost plus fixed fee contract with a GMP.

- b. In Design/Build, unless otherwise directed by the City, the pricing mechanism shall be a lump sum contract with GMP.
- c. The GMP may be negotiated as provided in AR 35.030. If no GMP can be agreed to with the highest-ranked proposer, the City may proceed to negotiate with the proposer that was next ranked in the original selection process, or employ other suitable means for entering into a contract.
- d. When cost reimbursement contracts are utilized, regardless of whether a GMP is included, the City shall provide for audit control which will effectively verify rates and ensure that costs are reasonable, allowable and properly allocated.

AGENDA ITEM # _____
FOR AGENDA OF May 28, 2002

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Consider Approval of an Ordinance Amending Chapter 15.04 of the Tigard Municipal Code.

PREPARED BY: G.N. Berry DEPT HEAD OK _____ CITY MGR OK _____

ISSUE BEFORE THE COUNCIL

Consider the proposed ordinance amending Chapter 15.04, Street and Alley Excavations, of the Tigard Municipal Code.

STAFF RECOMMENDATION

Approve the proposed ordinance.

INFORMATION SUMMARY

Chapter 15.04 requires persons working in the right-of-way to obtain a permit and conform to City construction standards. The proposed amendments would result in the following revisions:

- (1) Responsibility for administering the chapter would be reassigned from the Public Works Director to the City Engineer to reflect the current administrative structure of the City.
- (2) To ensure that adequate fees and security have been provided, permits would be issued on an annual basis only if the work is subject to a franchise agreement.
- (3) The maximum permitted widths of driveways have been increased. The maximum driveway width for a commercial driveway would be increased from thirty feet to forty feet to better accommodate trucks with trailers. The maximum width of residential driveways would be increased from twenty-six feet to thirty feet for houses with three or more garages.
- (4) The penalty for violation of the chapter has been revised so that it is consistent with other chapters of the Code.

Language revisions as recommended by the City Attorney have also been included.

OTHER ALTERNATIVES CONSIDERED

None

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Not applicable

ATTACHMENT LIST

Ordinance amending TMC Chapter 15.04
April 12, 2002, Memorandum from the City Attorney's Office

FISCAL NOTES

Not applicable

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CITY OF TIGARD, OREGON

ORDINANCE NO. 02-

AN ORDINANCE AMENDING CHAPTER 15.04, STREET AND ALLEY EXCAVATIONS, OF THE TIGARD MUNICIPAL CODE.

WHEREAS, the City Council finds that Chapter 15.04 of the Tigard Municipal Code should be updated;

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: Chapter 15.04 is amended to read as follows:

Deleted language is shown by a ~~strike through~~ of language; added language shown by an underline of language.

Chapter 15.04 ~~STREET AND ALLEY EXCAVATIONS~~ WORK IN RIGHT-OF-WAY

Sections:

- 15.04.010 Definitions.
- 15.04.020 Permit--Required.
- 15.04.030 Permit--Application.
- 15.04.040 Permit--Conditions.
- 15.04.050 Security.
- 15.04.060 Conduct of work.
- 15.04.070 Adherence to and exhibition of permits.
- 15.04.080 Driveway approaches and curb cuts.
- 15.04.090 Areas of limited street improvements.
- 15.04.100 Abandoned driveway approaches.
- 15.04.110 Sufficient parking required.
- 15.04.120 Unusual conditions.
- 15.04.130 Jurisdiction.
- 15.04.140 Inspection and acceptance.
- 15.04.150 Barricades and safety measures.
- 15.04.160 Liability for accidents.
- 15.04.170 Repairs.
- 15.04.180 Option to city to replace pavement.
- 15.04.190 Applicability to city work.
- 15.04.200 Violation--Penalty.

15.04.010 Definitions.

The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

- (1) "Apron" means that portion of the driveway approach extending from the gutter flow line to the

property line.

(2) "Curb return" means the curved-portions of a curb in the end slopes of a driveway approach.

(3) "Driveway" means an area designated for vehicular use, other than a designated parking area, not dedicated or set aside for public use.

(4) "Driveway approach" means an area, construction or improvement between the roadway of a public street and private property intended to provide access for vehicles from the roadway of a public street to a definite area of the private property, such as a parking area, a driveway, or a door at least seven feet wide, intended and used for the ingress and egress of vehicles. The component parts of the driveway approach are termed the apron, the end slopes or the curb return.

(5) "End slopes" means those portions of the driveway approach which provide a transition from the normal curb and sidewalk sloping surface or by means of a curb return together with the area between the projected tangents of the curb return.

(6) "Person" means every natural person, firm, co-partnership, association, public or private corporation, or district.

(7) "Sidewalk" means an area specifically delineated and constructed for pedestrian use located behind a curb but within public right-of-way.

(8) "Street" or "alley" means every way or place open as a matter of right to the use of the public for vehicular or pedestrian traffic between right-of-way lines.

(9) "Tunnel" means an excavation requiring the removal of dirt or like material and does not include driving or forcing of pipe through the ground. (Ord. 74-14 §1, 1974).

15.04.020 Permit--Required.

~~(4)~~ (a) It is unlawful for any person to cut upon or within, break, dig up, damage in any manner, undermine or tunnel under any public street or public alley for the purposes of doing work in a public right of way or in a sanitary sewer, storm sewer or water easement as described in this chapter, without first complying with the provisions of this chapter in regard to the obtaining of permits, depositing of securities and the making of applications to the city. Applications for permits shall be in the form prescribed by the city. Permits shall be issued on an annual basis or for a limited time and shall specify the extent of the authority granted by the permit. Permits shall be issued on an annual basis only if the proposed work is subject to franchise agreement with the City.

~~(2)~~ (b) Any person who cuts upon or within, breaks, digs up, damages in any manner, undermines or tunnels under any unimproved public street or public alley for purposes other than those described in this chapter, must obtain an encroachment permit pursuant to Chapter 15.16 of this Code. (Ord. 99-31, Ord. 74-14 §2, 1974).

15.04.030 Permit--Application.

(a) At the time of application for permit for a limited time and for a specific cut or break in a street or alley, the applicant shall specify his name, telephone number, and address, the date of application, the name of the street or alley to be cut or tunneled under; the nature of the street surface or of pavement involved; the purpose of the work; the size, location and nature of the cut or excavation; the number of days required to complete the work; and shall execute an agreement to deposit such securities as required by the city, to comply with the provisions of this chapter and with the specifications of the city pertaining to the conduct of the work, to save the city and its

employees harmless against any injury or damage which may result from the actions of the applicant, and to ~~notify the City Engineer's office at least twenty-four hours before beginning the work. file a report of the work done within forty-eight hours of its completion.~~ Application for each permit to be issued for a limited time and for a specific cut or break in the street or alley shall be accompanied by a fee set by the city council according to Chapter 3.32 of this code.

(b) The application for an annual permit shall be in form as prescribed by the city and shall specify the name and address of the applicant, as required by the city, to comply with the provisions of this chapter, and an agreement to save the city and its employees harmless against any injury or damage as a result of the actions of the applicant ~~and to file a report of all work done under the permit within ten days after the initial cut or break in the street or alley has been made.~~ Application for an annual permit shall be accompanied by a fee set by the city council according to Chapter 3.32 of this code. (Ord. 84-54 §1, 1984: Ord. 81-93 §1, 1981: Ord. 74-14 §3, 1974).

15.04.040 Permit--Conditions.

All work in streets or other public places shall be done in the location approved by the ~~department of public works~~ Engineering Department and in accordance with plans and specifications prepared or approved by the department. Such permit may include conditions binding upon the permittee. Such conditions may include prior filing of a performance bond and/or a maintenance bond and may include such other requirements as the ~~department of public works~~ Engineering Department finds appropriate in the public interest. All work done shall be subject to the rejection or correction requirements of the ~~department of public works~~ Engineering Department and subject to its final approval. (Ord. 74-14 §4, 1974).

15.04.050 Security.

Before the issuance of any permit, the ~~department of public works~~ Engineering Department shall require the applicant or his contractor to file with the city, as security, either:

(1) In the event an annual permit is requested, a surety bond in the amount of five thousand dollars, unless the applicant is already bound by the provisions of a franchise ~~ordinance or a subdivision compliance~~ agreement.

(2) In the event of an application for a permit for one particular cut or break in an alley or street, a surety bond in an amount equal to the estimated cost of the work to be performed.

(3) The cost upon which the amount of the bond or security shall be based shall be the cost of the work to be performed within the public right-of-way, and not the cost of work to be performed outside of such right-of-way.

(4) Security may be held on deposit by the city for a period of one year. The security agreement shall provide that the applicant or his contractor will, immediately upon completion of the work, be obligated to keep the work in a state of good repair at his own expense, and that he shall continue to do so until released from the maintenance obligation. In the event the applicant or his contractor fails to carry out all provisions of the permit and the maintenance requirement, and the city has unreimbursed costs or expenses resulting from such failure, the city may call upon the security agreement or deposit for reimbursement.

(5) In lieu of a surety bond, the applicant or his contractor may file as security cash, certified check or money order. The city shall hold such security subject to the conditions set forth above.

(6) In the case of unimproved streets, no security shall be required unless, in the opinion of the city, such security is necessary for the protection of the public interest.

(7) The requirements of this section may be waived if the applicant is a municipal corporation and it provides the city with written assurances including, but not limited to, the following:

(A) The applicant agrees to maintain in full force and effect all performance and security bonds assuring performance of contractors for the benefit of the applicant while the work is being performed under the permit for which application is made;

(B) In the event any or all of the work is not completed in accordance with the terms of the permit, the applicant will undertake to complete all work and obligations to be performed for the benefit of the city.

(8) The ~~public works director~~ City Engineer shall determine the adequacy of, and consent in writing to, the alternative assurances provided for in subsection (7) of this section prior to issuance of the permit. (Ord. 82-28 §1, 1982; Ord. 76-11 §1, 1976; Ord. 74-14 §5, 1974).

15.04.060 Conduct of work.

All work under such permits shall be done in conformity with the provisions of this chapter, the terms of the application and permits and in the manner approved by the ~~department of public works~~ Engineering Department. Upon completion of the excavation, cut or tunnel, all surplus earth, rubbish or other materials shall be removed immediately and the street surface or pavement shall be replaced in as good as or in better condition than it was before. (Ord. 74-14 §6, 1974).

15.04.070 Adherence to and exhibition of permits.

No work shall be undertaken other than that specified in the application and permit for a particular cut or excavation. Upon demand of a city representative or any police officer, the permit shall be produced at the place where the work is in progress or, in the case of an annual permit, shall be on display at the place of business of the person within the city; or such work shall be stopped until the permit is produced and/or authenticated. (Ord. 74-14 §7, 1974).

15.04.080 Driveway approaches and curb cuts.

(a) The permit provided in this chapter authorizes relocation of any municipal facility, including any within the limits of a curb return which may be encroached upon or allowed, providing that the applicant first notifies the appropriate authority, obtains the appropriate authorization and bears the cost of the relocation of the municipal facility.

(b) ~~No driveway approach shall be less than five six feet from the side property line projected except in cul-de-sacs, without approval and written permission of the city. The end slopes may encroach within the five foot restricted area.~~ Except for shared driveways, no driveway approach or access shall be less than six feet from the side property line projected, except in cul-de-sacs, without written permission of the City Engineer. End slopes shall not be considered part of the driveway approach or access.

(c) No portion of any driveway approach, including the end slopes, shall be located closer than thirty feet to an intersecting street right-of-way line.

(d) Commercial or service drives shall not be more than ~~thirty~~ forty feet in width and if located on the same lot frontage shall be separated by a minimum length of curb of thirty feet.

(e) Each residential driveway shall be not more than ~~twenty-six~~ thirty feet in width including end slopes, and if more than one driveway is to be constructed to serve the same lot, the frontage spacing between

such driveways shall be not less than thirty feet measured along the curb line.

(f) Joint access driveways shall conform to the appropriate width standard for commercial or residential type usage. (Ord. 74-14 §8, 1974).

15.04.090 Areas of limited street improvements.

(a) Where standard gutter and curbs have been installed but where concrete sidewalks have not been installed, the applicant shall be required to construct the driveway approach from curb line to the applicant's premises. The cost shall be borne by the applicant.

(b) Where standard gutter and curbs have not been installed, the driveway approach may be constructed of the same material used for surfacing the driveway. The applicant shall improve that portion between the property line and existing pavement in such a manner as to not impede surface drainage along the street. The cost of that portion of the improvement, between the property line and existing pavement, shall be borne by the applicant. (Ord. 74-14 §9, 1974).

15.04.100 Abandoned driveway approaches.

In the event a person, firm or corporation makes an application to relocate a driveway approach and abandons an existing driveway approach, the applicant shall remove the existing driveway and replace the curb to a standard curb section at his own expense. (Ord. 74-14 §10, 1974).

15.04.110 Sufficient parking required.

~~No permit for the construction of driveway approaches to public or private property shall be issued unless sufficient parking area is provided on the property served, entirely within the property lines in accordance with city ordinances.~~ No permit for the construction of new driveway approaches shall be issued unless the property served has the minimum parking required by the Community Development Code. (Ord. 74-14 §11, 1974).

15.04.120 Unusual conditions.

~~The city council may grant variances from the regulations and requirements of this chapter, provided it is first determined at a public hearing that the following conditions are all present:~~

~~——— (1) ——— The variance requested arises from peculiar physical conditions not ordinarily existing in similar districts in the city or is due to the nature of the business or operation upon the applicant's property; and~~

~~——— (2) ——— That the variance requested is not adverse to the public interest, particularly safety, health and general welfare; and~~

~~——— (3) ——— That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or tenants; and~~

~~(4) That application of the strict terms of this chapter will work unnecessary hardship upon the applicant, property owner or tenant.~~

The City Engineer may grant the permit even if all the standards of this chapter are not met if the City Engineer determines that the following conditions are present:

- (1) There are peculiar physical conditions not ordinarily existing in similar districts in the City or the nature of the business or operation makes compliance with all standards impossible or impractical;
- (2) The public interest, particularly safety, health and general welfare is not adversely affected;
- (3) The granting of the permit will not adversely affect the rights of adjacent property owners or residents; and
- (4) The application of the standards of this chapter would woor unnecessary hardship upon the applicant, property owner, tenants or residents. (Ord. 74-14 §12, 1974).

15.04.130 Jurisdiction.

The requirements of this chapter shall apply to all public rights-of-way under the jurisdiction of the city of Tigard, dedicated by plat or deed, created by user, or the use thereof controlled by the city pursuant to agreements with Washington County or the ~~State Highway Department~~ Oregon Department of Transportation. (Ord. 74-14 §13, 1974).

15.04.140 Inspection and acceptance.

The permittee must apply to the ~~department of public works~~ Engineering Department of the city for inspection of the work to determine compliance with the requirements of this chapter, prior to final acceptance of the work. The permittee shall not be relieved of obligations under any performance or cash bond posted pursuant to the provisions hereof until the work is in accordance with the terms of the permit and has been accepted by the department. The permittee shall further remain obligated through a time period which may be required by the city, via a maintenance bond, but not exceeding one year from the date of acceptance of the work. (Ord. 74-14 §14, 1974).

15.04.150 Barricades and safety measures.

Whenever any person, under authority of this chapter or otherwise, places any obstruction in a street or alley or makes any excavation therein for any purpose whatsoever, it shall be the duty of such person or corporation to keep the obstructions or excavation properly safeguarded by substantial barricades and display lighted red lanterns or other lights or flares from dusk until daylight in conformity with such regulations as may be specified by the ~~eCity eEngineer~~. Whenever, in the opinion of the ~~city department of public works~~ Engineering Department, the public safety is endangered by such cuts or excavations as to require constant supervision from dusk to daylight to insure that all barricades are in proper condition and location, all warning lights are burning and all traffic is properly routed around such barricades, the person to whom the permit for work has been granted shall be responsible for furnishing a night watchman for that purpose. (Ord. 74-14 §15, 1974).

15.04.160 Liability for accidents.

Every person or corporation having occasion to place any obstruction in any street or alley or to make any excavation therein under provision of this chapter shall be responsible to anyone for any injury by reason of the presence of such obstructions or excavation on the public highways when the obstruction or excavation is the whole proximate cause of the injury and shall also be liable to the city, in the event that the city is held responsible for any action or claims or otherwise arising out of the presence of the obstruction or excavation on the public highway. (Ord. 74-14 §16, 1974).

15.04.170 Repairs.

All persons to whom ~~such~~ permits are granted under this chapter shall be personally responsible for the maintenance and repair of the street surface of pavement cut, dug up, damaged, tunneled under, undermined, under the provisions of the permit, in as good or better condition then before such work was undertaken, at their own expense, and for such a period of time as required by the ~~city department of public works~~ Engineering Department, but not to exceed one year. (Ord. 74-14 §17, 1974).

15.04.180 Option to city to replace pavement.

Whenever, in the opinion of the ~~e~~City ~~e~~Engineer, it would be to the best interest of the city for the city itself to replace or repair the street surface or pavement cut, damaged, tunneled under or undermined under the provisions of this chapter, such work shall be done by the city and the cost of the work shall be either charged to the person to whom the permit for the cut or excavation has been granted or deducted from security deposited by him with the city. (Ord. 74-14 §18, 1974).

15.04.190 Applicability to city work.

The provisions of this chapter shall not be deemed to apply to construction or maintenance within streets or alley rights-of-way by the city, by its employees, when conducting city work, or by persons operating under contract with the city; contractor's performance and maintenance responsibilities are not, though, relieved. (Ord. 74-14 §19, 1974).

15.04.200 Violation--Penalty.

~~Any person, firm or corporation who is convicted of a violation of the provisions of this chapter is guilty of a misdemeanor and shall be subject to the imposition of a fine not to exceed two hundred fifty dollars. A violation of this chapter is a Class 1 Civil Infraction.~~ (Ord. 74-14 §21, 1974).■

SECTION 2: This ordinance shall be effective 30 days after its passage by the Council, signature by the Mayor, and posting by the City Recorder.

PASSED: By _____ vote of all Council members present after being read by number and title only, this _____ day of _____, 2002.

Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this _____ day of _____, 2002.

James E. Griffith, Mayor

Approved as to form:

City Attorney

Date

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ORDINANCE No. 02-__

**RAMIS
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BACHRACH, LLP**
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MEMORANDUM

To: Gus Duenas, City Engineer
From: Gary Firestone, City Attorney's Office
Date: April 12, 2002
Re: TMC 15.04

I have reviewed the proposed amendments to TMC 15.04. In response to your first concern, I agree that the title is somewhat too narrow. I think it would be advisable to refer to "right of way" rather than "streets and alleys. I would suggest calling the chapter "Right of Way Permits" or "Work in Right of Way."

As to whether any of the provisions should be in the Community Development Code or in the Engineering Department's Public Improvement Design Standards, it is not necessary to move any of the provisions. While it would be possible to move some of them to the Public Improvement Design Standards, unless there has been a problem with the current system, I see no reason to move any of the standards. For the most part, the standards do not belong in the Community Development Code, since they deal with actions on public property rather than development on private property.

I have the following specific comments:

Section 15.04.030(a)

This provision requires the applicant to notify the city's inspector 24 hours before beginning the work. The term "inspector" is not defined. The City has more than one type of inspector, so this is at least potentially ambiguous. One possibility is to require notice to the "City Engineer's office." Also, I assume that this means at least 24 hours before starting the work. I suggest inserting the words "at least" before "twenty-four."

Section 15.04.050(1)

I would replace the term "franchise ordinance" with the term "franchise agreement." I would also delete "or a subdivision compliance agreement" because annual permits will be issued only to franchisees.

Section 15.04.080(b)

This section requires city approval for certain driveway locations. It does not specify who can approve approaches less than 6 feet from the side property line. It also ignores the possibility of shared approaches. The following could be considered:

Except for shared driveways, no driveway approach or access shall be less than six feet from the side property line projected, except in cul-de-sacs, without written permission of the City Engineer. End slopes shall not be considered part of the driveway approach or access.

Section 15.04.110

This is the one provision that could possibly be included in the Community Development Code. However, it is appropriate to keep the provision in this Chapter because it does not independently set a standard for on-site parking. The provision could be reworded to read:

No permit for the construction of new driveway approaches shall be issued unless the property served has the minimum parking required by the Community Development Code.

Section 15.04.120

The revision gives the City Engineer the authority to grant a variance. This provision does not provide for a procedure to grant the variance. The term "variance" is normally used in the land use context and usually involves a public process. If the intent is to keep this primarily administrative, I suggest that the term "variance" not be used. Possible language:

The city engineer may grant the permit even if all the standards of this chapter are not met if the city engineer determines that the following conditions are present:

- (1) There are peculiar physical conditions not ordinarily existing in similar districts in the city or the nature of the business or operation makes compliance with all standards impossible or impractical;
- (2) The public interest, particularly safety, health and general welfare is not adversely affected;
- (3) The granting of the permit will not adversely affect the rights of adjacent property owners or residents; and
- (4) The application of the standards of this chapter would work unnecessary hardship upon the applicant, property owner, tenants or residents.

You may want to consider adding: "The decision of the city engineer to grant the permit when all standards are not met may be appealed to the City Council by the filing of a written appeal within 10 days of the date of the issuance of the permit."

Section 15.04.150

We suggest that the term “night watchman” on the last line be replaced by “a person to provide supervision.”

Section 15.04.170

The word “such” in the first line has no immediate antecedents. The word should either be deleted or the language could be changed to read: “All persons to whom permits are granted under this chapter”

Section 15.04.180

I suggest the end of the last sentence be revised to read: “or deducted from the security deposited with the city.”
